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DECEMBER MEETING.

THE stated meeting was held on Thursday, the 14th instant, at three o'clock, P. M.; the first Vice-President, in the absence of the PRESIDENT, in the chair.

The record of the last meeting was read and approved; and the Librarian read the list of donors to the Library during the last month.

The Corresponding Secretary reported the receipt of a letter from Gamaliel Bradford, Jr., accepting his election as a Resident Member.

The Cabinet-Keeper reported gifts from the estate of Mrs. William B. Rogers, of a photograph of a group of members of the Society taken in 1855, and a woodcut of Thomas Savage, who came from London to Boston in 1635; from Edward Webster Foster, of New York, of a reproduction of a silhouette of Samuel Foster, a member of the Boston Tea Party, and captain in Colonel Greaton's Massachusetts regiment in the Revolution; from Katharine Norton Lewis, of Boston, of a silver Mexican dollar of 1861, and a carved walrus tusk.

The Editor reported gifts of manuscripts as follows: from Miss Mary P. Nichols, of Boston, ten letters and manuscript sermons, all but two belonging to the seventeenth century, and including such names as William Brattle, Josiah Cotton and Shubael Dummer; from Archibald M. Howe, twenty-eight pieces, being letters of James Murray and others, and seven letters of William Hooper, signer of the Declaration of Independence; from GRENVILLE H. NORCROSS, a letter of Nathan Fiske (1787), and a manuscript sermon (1757-1787); from Mr. WENDELL, a notarial register, 1758-1766, of maritime causes, replete with valuable information upon the trade between New England and the West Indies, the mercantile customs and casualties in time of war, and the controversies and cargoes arising from the commerce.

The Editor also communicated a memoir of Josiah P. Quincy, prepared by Mr. HOWE.

The Vice-President announced the appointment, by the Council, of Mr. BRADFORD to fill the vacancy on the Committee of Publication of the Bradford History.

Justin Harvey Smith, of Boston, was elected a Resident Member of the Society.

The Vice-President remarked that, by the election of Mr. Smith, the list of Resident Members of the Society is now full, as are also the lists of Honorary and Corresponding Members. This condition of membership in the three rolls has not existed for a long period of time.

Dr. GREEN then read the following paper on

RECOLLECTIONS OF THE REBELLION.

Agreeably to the suggestion of Mr. Adams that I should give at this meeting my recollections of Messrs. James Murray Mason and John Slidell, and other prisoners confined at Fort Warren, near the beginning of the War of the Rebellion, I will try to do so, though they are dimmed by the mists of time. These reminiscences, in the main sifted through the lapse of half a century, are both few and faint, but certain incidents were impressed in detail so deep in my memory that a life-time is not long enough to forget them.

During the War I witnessed many events that have become of historic interest, but from the want on my part of a due appreciation of their influence on the great questions of the day, I paid little attention to them at the time of their occurrence. But not so in my intercourse with the two commissioners of the South, whom I met several times a day in a social and informal manner. They both were gentlemen of education, and of great political prominence in their section of the country. While I could not smooth the roughness nor in any way soften the asperities of the situation, I had it in my power in some slight degree to relieve the friction that necessarily existed. All parcels sent from this city to the Fort, particularly such packages as were supposed to contain bottles, were examined by a proper officer at the landing where the steamer came twice a day, bringing food and other necessary articles for a

large number of men. Anything addressed to me or the Medical Department — of which I was then at the head — was passed without delay or examination. I knew that the commissioners, while leading their customary life, used stimulants which cheer but not inebriate, when taken in moderation; and I felt it to be my social duty, as well as professional, to keep them in their usual and regular habits.

In going my rounds each morning I used to make a long visit in their quarters, as I took much pleasure in talking with them. Often I would spend an hour there. They both had been United States Senators and had seen much of public life in Washington and elsewhere, and were familiar with the great questions of the day. While they were rampant rebels, and never ceased in their violent denunciations against the government, for unaccountable reasons I enjoyed my relations with them. Perhaps it was the fascination exerted by two men, then very much in the public eye, over a young man who had never before heard treason talked so openly and who at that time was studying the question from a student's or a psychological point of view.

I remember that Mr. Slidell once mentioned to me that he was a Northern man by birth, and that he was educated at a Northern college, at which I was somewhat astonished. This statement I found, later, to be strictly correct; though a few years after graduation he removed to Louisiana, where he became eminent as a lawyer and prominent as a politician. He was always an ardent supporter of the doctrines of State-rights, and he declined a cabinet appointment under President Buchanan. I remember well he told me one morning that, just as soon as the English government heard of the "outrage" — as he called it — on the steamer *Trent*, the authorities in London would demand the immediate surrender of the two commissioners with an apology from the American government for the act. If this demand was not complied with at once by the authorities here, war would be declared by Great Britain. He said furthermore that he expected by the beginning of the new year to be on his way to England, together with Mr. Mason, his colleague, after being released from the Fort by orders from Washington. If war was declared by England, a naval force would be sent to our shores, and the blockade along

the Southern coast would be raised in less than six weeks; and then the Confederacy would become an acknowledged fact. He thought that Mr. Lincoln's administration would foresee this state of affairs and release them at once.

To all this I listened attentively and respectfully, but made no reply. I had no knowledge of international law, and I could give no satisfactory answer to his statements. The newspapers, however, were discussing the question freely, and their columns were full of leaders on the subject. So far as I had any opinion on the law, it was gained from the public prints; and, of course, that was not the view taken by the commissioners.

The newspapers hereabouts very generally, unanimously so far as my recollection goes, upheld the stand taken by Captain Wilkes, of the *San Jacinto*; and they reflected accurately public sentiment in the matter. A complimentary dinner was given at the Revere House to Captain Wilkes and his officers, at which the Governor of the Commonwealth, the Mayor of the city, and the Chief Justice of the Supreme Court, together with other prominent citizens, spoke and all warmly applauded the act of Captain Wilkes. They seemed to vie with each other in giving praise to the daring naval officer and in bestowing compliments on him.

During the next few weeks, however, I noticed that Mr. Slidell's prediction came true. This was owing to the foresight of Mr. Seward, which involved a master stroke of diplomacy on his part. When the demand was made by the English government for the surrender of the commissioners, the Secretary of State in substance replied, that they should be liberated most readily, and that our action in this matter was in accordance with principles which the United States had always held and long maintained. He furthermore said that it was a matter of special congratulation that the British government had disavowed its former claims, namely, the right of search of foreign vessels in time of peace; and that it was now contending for what the United States had always insisted upon.

At this juncture the United States was in a tight fix. If Mr. Seward had not taken the course he did, the alternative was war with England, and the raising of the blockade of the Southern ports. This meant success for the seceding States. He displayed great wisdom in his policy. He showed that his

action in this matter was entirely consistent with the great underlying principles long held by the American government; and thus he forestalled the criticism that was sure to be made by his own countrymen.

It so happened that some years previously I had known Mr. Slidell's secretary, George Eustis, in Washington, when he was a member of Congress from Louisiana. His father was a native of Boston and a nephew of Governor William Eustis. As George Eustis was now held in military custody, I tried to make his position as agreeable as possible under existing circumstances. We talked of our former acquaintanceship; and our present relations under unforeseen conditions were mutually respected.

It also happened that I had had a slight bowing acquaintance with Mr. Mason's secretary, James Edward Macfarland, who was a student in the Harvard Law School, where he took his LL.B. in the Class of 1849, while I was an undergraduate in college. It seemed to me very odd and strange that the exigencies of war should have brought together, now under vastly different circumstances, three chance acquaintances of a former period within the solid walls of a strong fort, but such is the whirligig of Time, and the irony of Fate!

The membership of the college as well as of the professional schools then was much smaller than it is now, and the intercourse between the young men of the various communities correspondingly closer than at present. The classes nowadays are more than ten times as large as in my day; and the disparity in numbers accounts for the greater intercourse at that period. Under the present circumstances it was my pleasure as well as duty to smooth the rough places and to soften the hard spots that lay in the paths of these two young men. They were fresh from Cuba, and well supplied with cigars — genuine Havanas — and I could supplement an evening's entertainment with other luxuries in keeping with the occasion. It was pleasant for me to do so, and presumably for them also.

So far as my knowledge goes, these prisoners never complained of the restraints under which they were held. They were allowed opportunity to take air and exercise as their health required; and they were permitted to write and receive unsealed letters, which were examined by proper officers, who were to

see that they did not contain seditious sentiments. Personal intercourse with outsiders was not allowed except by permission from the authorities in Washington.

Less than two years later I was brought often into personal contact with Lieutenant D. M. Fairfax,¹ who had taken the two rebel commissioners from the English steamer *Trent*. In the early spring of 1863 my regiment (the 24th Massachusetts) had occupied Seabrook Island which commanded Seabrook Inlet, sometimes called North Edisto Inlet, very near Charleston harbor, subsequently a place of rendezvous for half a dozen monitors which were to take part in the assault on Fort Wagner and Fort Sumter. During the month of June, a hot season off the coast of South Carolina, life on an iron-clad was as uncomfortable as it could well be, and in any description of the weather it might be compared to what Sherman said war was. In consequence of this extreme heat the naval officers passed much of their time ashore, where I met them often. Of the several commanders one was Fairfax, now in charge of a monitor. In our frequent intercourse we spoke of the *Trent* episode, but never spent much time on the subject, as it was then a back number.

On another occasion I dined at the same table with Charles Bunker Dahlgren,² eldest son of Rear Admiral Dahlgren, who in a ship's cutter accompanied Lieutenant Fairfax, going from the *San Jacinto*. In this way I heard anew the description of the scene which took place aboard the *Trent* when the commissioners were transferred.

After all, the world is rather small, and one is apt in any quarter of the globe to run across somebody he has met somewhere or has known before. But Mason and Slidell were not the only men of distinction who were in custody at the Fort. There was Mr. Charles James Faulkner, who had been United States Minister to France, where he was appointed by President Buchanan. He had been prominent as a politician in Virginia and a member of Congress from that Commonwealth. He was a man of education and refinement, and an agreeable person to meet. It was said that he had influenced the French emperor to sympathize with the South in their struggle, for which reason he was recalled by President Lincoln. On his return to

¹ Donald MacNeill Fairfax.

² Died, January 10, 1912.

this country he was arrested as a disloyal citizen and confined in Fort Warren. At a later period he was exchanged for a member of Congress, Alfred Ely, of New York, who had been confined in Libby Prison, at Richmond, after his capture at the first Battle of Bull Run.

Other political prisoners were George W. Brown,¹ Mayor of Baltimore, Governor Charles S. Morehead,² of Kentucky, and Marshal George P. Kane,³ of Baltimore, all prominent in the early days of the Rebellion as sympathizers with the South, but who lived to see their hopes crushed. There were also a thousand men, more or less, who had been captured at Hatteras Inlet, when the two forts there had been taken. They were about as motley a crew as could easily be collected, varying in their ages from sixteen to sixty years. Their clothing was anything but uniform, and in their appearance might well be compared to Falstaff's soldiers near Coventry. These men, I remember, were very proud of the name "rebel," and wished to be known as rebels. They never would give up the struggle and were ready to die in the last ditch. During the campaign of the next year in North Carolina, after some of the battles and skirmishes in that State, I met several of these men again who had been duly exchanged for Union soldiers held by the rebels as prisoners.

During the time of my service at the Fort I received a note from a distinguished citizen of Boston,⁴ and a member of this Society, whose loyalty to the government was undoubted and whose liberality was unlimited, authorizing me to buy for Mr. Eustis anything needed for his comfort or pleasure. After the receipt of the note I called on the writer and told him what in my opinion would be most acceptable to the gentleman in question, who in this matter represented the group from the *Trent*. I was then given a *carte blanche* to procure whatever was wanted by them and to distribute the articles as I saw fit. In

¹ George William Brown, who served as mayor less than one year, having been elected on a "reform" ticket. He was one of the Founders of the Maryland Historical Society in 1844.

² Charles Slaughter Morehead (1802-1868). He resided in England during the war, and passed his last years on his plantation near Greenville, Mississippi.

³ George Proctor Kane (1817-1878), a merchant, who had been collector of customs at Baltimore. He was mayor of the city at the time of his death.

⁴ William Appleton.

accordance with these liberal instructions I bought fruit, flowers and other luxuries that were conducive to their comfort or pleasure; and at the same time I was careful to let the recipients know the source of the bounty.

While there was not one drop of blood in my veins sympathizing with the attempt to break up the Union, I did feel a sort of compassion and pity for these prisoners, — they were men of education and refinement, and now bereft of all the pleasures that go with Thanksgiving cheer; and I tried to treat them as I would have wished my friends to be treated in a similar situation. It was a source of some satisfaction to me that I was able to enliven in a slight degree the tedious hours of their monotonous life. When I took my leave of them, they wished me health and happiness; and I watched the outcome of the arrest with much interest. The two commissioners died within a few weeks of each other some years after the end of the war.

The two following papers are copied from the Executive Letter Files at the State House; and they give the reasons why the 24th Massachusetts Volunteers were ordered to Fort Warren:

September 28, [1861.]

Colonel Thomas A. Scott,
Assistant Secretary of War, Washington, D. C.

SIR, — I am instructed by His Excellency Governor Andrew to acknowledge the receipt of your communication of 24th inst., and to state that Massachusetts is now organizing eight regiments of infantry, one of cavalry and three batteries of artillery, besides which recruiting is going on here for the regular army to fill vacancies in the regiments from this State now in the field and for the regiments of other States.

The Governor is therefore anxious to avoid any steps which might delay the filling up of these regiments by starting any new organization at present, and if a company is to be raised especially to guard the prisoners at Fort Warren it would in effect take so many men from these regiments.

It would seem to him moreover that raw recruits entirely un-drilled and undisciplined ought hardly to be entrusted with this delicate duty. And again one company could not furnish a sufficient guard, with the proper relief, for so large a work: as when it was garrisoned by Massachusetts volunteers a whole company was required for the guard each day.

The Governor therefore would suggest that instead of raising a new company for this duty he should be allowed to place in Fort Warren one of the regiments he is now raising. The 24th Mass. Volunteers, Colonel Thomas G. Stevenson, would answer admirably for this duty. Colonel Stevenson was in command of Fort Independence, Boston Harbor, for two months last spring, and distinguished himself by the neatness, order and discipline he enforced as well as by the drill of his battalion. This battalion is being now increased to a regiment — it numbers at present but 400 men; but these are well uniformed, equipped and drilled, and commanded by officers who are gentlemen of education and experience. The regiment while guarding the prisoners could go on with its own organization, and when ready to march its place might be supplied by another.

By this plan the expense of a new company would also be saved.

I am further to request that if this plan meets your approval you will please answer by telegraph. Very respectfully,

HARRISON RITCHIE,
*Lt. Col. and A. D. C.*¹

EXECUTIVE DEPARTMENT.

Telegram.

To Lieut. General [Winfield] Scott,
Washington, D. C.

Failing to receive authority for muster of Colonel Stevenson into service, have ordered Lieutenant-Colonel Francis A. Osborn, Twenty-fourth Regiment Massachusetts Volunteers, with two hundred men, into Fort Warren, where he will be ready to receive prisoners on and after Saturday [the nineteenth]. Have also notified Col. Loomis.

A. G. BROWNE, JR.,
*Lieut. Col. and Military Sec'y.*²

The following letter will explain itself. When I called on the writer, as already mentioned, I found him in feeble health, and he lived only a short time afterward. He died at Longwood, on February 15, 1862, at the age of seventy-five years.

BOSTON Nov 23rd 1861

DEAR SIR, — I asked you to ascertain what was required and essential to the comfort of those confined at Fort Warren. My son

¹ Executive Letter Files, v. 481-483.

² *Ib.* vi. 318.

Charles tells me, you said that fruit would be very acceptable. The season for fruit, as you are aware, has not been good; and we have almost none at this time except apples.

Among the prisoners daily expected, is Mr. Eustis in whom I have much interest from personal acquaintance and a long intimacy with his family to whom I am under many obligations. I wrote him some days since, proffering my services in any way consistent with our position, and the unhappy state of our Country. I have no knowledge of what is allowed to be communicated between those once intimate, and now severed and struggling for the destruction of each other.

It must be very troublesome to the Commander to examine so many communications as must be brought to his eye; but lest I aggravate the evil, I will to the point.

When attending Congress in July, as I was told, Mr. Eustis and wife were on their way to Washington, and again that he was detained in Alabama by fever, and that afterwards they were at the White Sulphur Springs in Virginia, for his health; whatever may have been his success in gaining health the transition to our climate must be fearful. Please see him, and inform me on the subject. I have said to him, that he would want some warm clothing &c., and to send to me for it and it should be attended to. I sent him some wine, and newspapers, some days since. The periodicals, such as the London Westminster and Edinboro Reviews, I would cheerfully send him if desired. You are aware my health would not allow me to visit the Fort were I permitted so to do.

Should you get this in time to write me in reply on Monday, I wish you particularly so to do, as I expect to be absent from Boston for some days. Sincerely yours

Wm. APPLETON.

D^r Green, Fort Warren.

I am tempted to add to this paper a bit of personal matter which has no connection with the Mason and Slidell affair, though it relates to the War of the Rebellion. I was among the last persons that ever had any long conversation with Robert Gould Shaw, the brave and fearless Colonel of the 54th Massachusetts Volunteers (a colored regiment), who lost his life in the assault on Fort Wagner. His regiment was drawn up on the beach, together with other troops, directly in front of my tent on Morris Island. Having known Bob Shaw and his father's family for many years, I stepped down to the beach and had a long talk with him. He was moving about at random

among his officers and men, some of whom I knew; and the subject of conversation among them was anything but what was uppermost in their minds. Everybody knew that there was to be a fearful fight, and that each one stood on the edge of a perilous battle; but this was not talked about. Everybody tried to be cheerful, but the clouds hung low. Soon the column started to march up the beach; and it was not long before the roar of cannon and the rattle of musketry proclaimed the fact that the battle had begun. In due time we had visible proof of it by the arrival of the wounded at the Post Hospital which was under my charge as Chief Medical Officer of the Island.

To me July 18, the day of attack on Fort Wagner, was a memorable anniversary, as just two years before a sharp skirmish took place in Virginia, which is now known as the fight at Blackburn's Ford, the forerunner of the first Bull Run, where I was present. A few days after the assault I accompanied Dr. John J. Craven, Medical Director of the Department of the South, aboard the hospital ship *Cosmopolitan*, under a flag of truce, which sailed up under the guns of Fort Sumter, where we were met by another steamer coming from Charleston, with surgeons in charge of our wounded, when we exchanged prisoners. On that occasion we received more men than we gave, as so many of ours had fallen in Fort Wagner that the defenders had the advantage of us in the numbers captured. While engaged in this exchange of prisoners I improved the opportunity to swap late New York newspapers for those of Charleston with the Southern medical officers. In going back to Morris Island I examined with much interest the account there given of the assault on the Fort. One account said that a young officer with Colonel's shoulder straps was killed, and undoubtedly he was Colonel Shaw; and it added that they had buried him *with his niggers*. This expression seemed to me, for various reasons, to be in bad taste. On my return to the Island I took this newspaper to General Gillmore and gave it to him.

Two or three days before the attack on Wagner there was a skirmish on James Island in which Shaw's men met with some loss. It was the first time that this colored regiment had ever been in action, and they received great credit for their conduct

under fire. The engagement was commanded by General Terry, on whose staff I was then serving.

The skirmish was fought over a low bit of sandy land near the coast, covered with marsh grass of considerable height; and the ground was honeycombed with the holes of fiddler-crabs. Word came to me that the bodies of some of the colored men killed in this fight had been mutilated by the enemy; and I felt it to be my duty to look into the matter and find out the truth. With that object in view, after the action I walked over the field, examining carefully the ground and looking for the mutilated remains of soldiers. As a result I found several bodies, which were almost wholly concealed by the tall marsh grass; and, sure enough, the small crabs had eaten away the cuticle in spots off the faces of the dead men, leaving a gruesome sight. The little wretches had attacked parts under the eyes, behind the ears, and other tender places; and there were scores of the ravenous crustaceans still at work when I found them, which disappeared as if by magic, as soon as they were disturbed. This discovery explained satisfactorily the rumors then circulating among the men. I went at once to Colonel Shaw and reported to him the facts, telling him at the same time that he had better return with me and see the exact state of affairs for himself, which he promptly did. The Colonel was soon satisfied that my statement was correct. I was afraid that some exaggerated account would get into the partisan newspapers of the North, and make a mountain out of a mole-hill. My only object was to settle the matter aright. So far as my knowledge goes, the subject was never mentioned in the public prints.

Shaw was a brave officer and was buried where he fell; and today he fills an unknown grave. His memory, however, is preserved both in bronze and marble elsewhere, and it is of little moment where his mortal remains lie. His name has been given to schools in different parts of the country, where it is cherished by the rising generation. He never thought of fame, but only of duty; and in his death he gained the one and did the other.

Facts lie at the foundations of history, and they are the raw material of all narrative writing; and this is my excuse for adding a bit of personal matter.

Mr. JONATHAN SMITH read a paper on

TOWN GRANTS UNDER BELCHER.

Among the Belcher papers, printed in the Society's *Proceedings*,¹ 1910, is the answer of Governor Belcher to a petition filed by Andrew Wiggin and others with the King and Council, setting forth the grievances of New Hampshire people against the Governor; and though not in terms asking for his removal, yet such was its intent and purpose. The complaint makes several charges of misconduct and among others this one:

And those Persons with whom your Majesty hath intrusted the Power of granting the unappropriated Land within this Province [New Hampshire], and who have, since the Judgement of the Commissioners, granted the only Tract of Land unappropriated, and out of Controversy, to Persons, the most of whom were great Opposers of the Settlement of the Lines, and who never contributed one Penny toward the Charge that hath attended it. Innumerable Instances of this Nature induce us to supplicate your Majesty for Relief.

The judgment of the Commissioners alluded to is the report of the Board appointed by the Crown and nominated by the Board of Trade, from the Provinces of Nova Scotia, Rhode Island, New Jersey and New York, to whom was referred the whole matter of the Boundary question.² It reported September 2, 1737,³ and gave an alternative decision, to the disgust and chagrin of the contending parties and from which both promptly appealed. Whether the beneficiaries of the offending grant had contributed to the expense of the hearing there is no information. The bill of the Commissioners alone was £1297 8s. 4d, which was divided between the two Colonies.⁴

To this charge Governor Belcher replied, that as Governor it "seems very Extraordinary Considering what former Governors have done of that kind, and what large Shares of new Townships, heretofore granted, have been or are now enjoyed by almost every Member in the present Assembly," and he goes on to say that the power of granting land was given to the Governor and his Council, and unless the grant complained of

¹ *Proceedings*, XLIV. 191.

² *Ib.* XIX. 391.

³ *N. H. State Papers*, XVIII. 62.

⁴ *Ib.* 421.

was to unsuitable persons, the petitioners had no right to complain.

The allegations made were true, — that after the report of the Commissioners Governor Belcher had granted away all the unappropriated lands of the province; the Governor's answer of confession; and that it was a "verry Extraordinary" charge in the light of the record of former Governors, and coming also from men who had previously received land under such action.

The petition referred to is dated November 4th, 1737, and is signed by Andrew Wiggin, John Rindge, Samuel Smith, John Smith, J. Odiorne, Jr., Thomas Packer and George Walton. All were members of the Assembly for 1737, and Andrew Wiggin was Speaker at the time.

The "case" or "brief" of the complainants, which is signed by J. Browne and William Murray, — afterwards Lord Mansfield, — their London attorneys, makes no mention of this charge about granting away the remaining land of the Province.¹ The inference is they attached very little importance to it, and thought it best not to discuss a fact which showed such inconsistency on the part of the petitioners. But the London attorneys of Governor Belcher, J. Strange and R. Hollings, dwell upon the point at some length.² Their brief claims that the Respondent granted the land by advice of the Council, and this cannot be a grievance, unless it is a grievance that the land was not granted to the petitioners. The lands were no part of the disputed territory, and the Governor and Council had an undoubted right to grant them, and it was for the King's interest to do so. The grantees were personally unobjectionable men, save that they were great opposers of the settlement of the boundary line, which, the brief says, was only inserted, as it is presumed, to show that the grants ought to have been made to the petitioners, — as the zealous asserters of the Line. Besides, it nowhere appears that the grantees were opposers"; and if they were that the Respondent did not know it, and if true it was no objection. It was applied for on the usual terms, and they appearing properly qualified, the Respondent would not have been justified in denying their request. There was no pretence that the complainants had asked for the grant, and they should

¹ *N. H. State Papers*, xix. 541.

² *Ib.* 552.

not repine because their neighbors had got unappropriated land which they themselves had never applied for.¹ The charge did not cast the "Fairest Light on this Complaint."

The land was granted under the Township name of Kingswood, and the grant was dated October 20, 1737.² From this it seems that the Wiggin petition was drawn up about the time of its date. The grant included what is now the towns of Middleton, New Durham and parts of the towns of Gilmanton, Wakefield and Wolfeborough. The territory lies between the southern part of Lake Winnipisaukee and the Maine border, Brookfield on the North, and what was then the northern limits of Rochester and Barrington on the South. The grantees numbered forty-nine, but at their first meeting, Shadrack Walton, George Jaffrey, Jotham Odiorne, Jr., Henry Sherburne, Richard Waldron, Ephraim Dennett, Joshua Pierce, Joseph Sherburne, Ellis Huske, Theodore Atkinson and Andrew Belcher were admitted grantees. All were then members of the Governor's Council save Andrew Belcher, who was a son of the Governor, and some of them were among his most active enemies. Of the original grantees none belonged to the Assembly for that year, but at least a dozen were either sons or near relatives of the members.

The Governor's claim, that former occupants of his office had done the same thing, was correct. In 1722 Governor Shute granted the townships of Chester, Londonderry, Nottingham and Barrington, and incorporated the town of Rochester; and in 1727 Lieutenant Governor Wentworth, acting Governor in the absence of Shute, had granted the townships of Epsom, Chichester, Barnstead, Canterbury, Gilmanton and Bow, all without protest from any one so far as appears. Of the seven signers to the Wiggin petition five had been among the grantees of one or another of six of these towns granted in 1722 and 1727. Wiggin himself had been one of the grantees of five, Samuel Smith of two, and George Walton, John Rindge and John Smith of one each. Richard Waldron, Secretary of the Council and Governor Belcher's fast friend, made a certificate probably for use in the controversy, that Lieutenant Governor Wentworth, on May 27, 1727, "Granted five Townships, and every Member of the House of Representatives at that time was made a Pro-

¹ *N. H. State Papers*, xix. 563.

² *Ib.* ix. 456.

prietor in each of the said Townships, and that Andrew Wiggin Esq. was then one of the Representatives and one of the Grantees of Each of the said Townships.”¹

In every case except Londonderry, which was given to the Scotch Irish, and Barrington, granted to four men of whom Lieutenant Governor Wentworth was one, five hundred acres had been set apart each to the Governor and Lieutenant Governor, and one lot to each of the Council. It would seem as though there was little ground for complaint on the part of the men behind this charge, that they had not got their share of land.

In some of the grants made during the same period, 1722–1727, grantees of Kingswood had been included. The petition for the latter grant bears the names of prominent families of Portsmouth and the neighboring towns, or of those who were closely allied to them by ties of kindred and social or business relationships. The petitioners had surely no cause for objection on the ground that Kingswood had been given to unworthy parties.

This complaint against Governor Belcher was only one of the moves on the political chessboard to secure other and far more important results — viz., the settlement of the boundary question between the two States, and the separation of the two Provinces. The controversy had dragged along for forty years, New Hampshire earnestly seeking an adjustment of the question, and Massachusetts constantly delaying and thwarting the movement. The continual defeat of the project had bred strong and bitter feelings among the people of the smaller province, which feeling had steadily grown as time went on. Not unnaturally they had become jealous of the superior power and wealth of the older State, and were fearful that the annexation of the territory between the Merrimack and Connecticut rivers would result in the consolidation of their province with Massachusetts, and so end their political existence as a separate province. The Governor resided in Boston, was a native of Massachusetts, and was its Governor as well as theirs. They distrusted his actions and heavily discounted all his professions of fairness and good faith. What they wanted was a governor of their own and to be free from all political connection with their southern neigh-

¹ *N. H. State Papers*, xviii. 79.

bor. While feeling the burdens of taxation, and parsimonious in their dealings with Governor Belcher over his salary, they believed, if they could obtain the region between the two rivers, that through its settlement the resources of the State would be so far increased that an independent Governor could be supported with less difficulty than under existing arrangements. There were many causes for irritation growing out of the unsettled controversy, one of which was the uncertainty of land titles near the disputed lines. This had given rise to litigation to such an extent as to become a serious burden, causing delay in the occupation and development of the territory, and proving a constant source of ill temper and vexation among the people.

Another circumstance had augmented the irritation. Between 1730 and the end of the year 1737, the Massachusetts Legislature, with the approval of Governor Belcher, who signed the acts, had granted twenty-five townships within the disputed area, besides giving away large tracts of land in ungranted territory. These were made to Massachusetts citizens upon favorable terms, and strenuous efforts were being constantly exerted to settle the grants. If these places were occupied by settlers from the older State, bound to Massachusetts by ties of land-title, birth or residence, and under the protection of its laws, it must weigh with the King and Council in making up the final decision. In this shrewd policy New Hampshire saw the "fine Italian hand" of Governor Belcher, and charged it up in the account against him. In prosecuting the scheme to appropriate these lands, Massachusetts people assumed that the line of Jurisdiction would not affect their property and that possession and improvement would make a secure title. This same idea existed among the Governor's friends in New Hampshire, and seeing this large tract of ungranted territory in the northeast part of the province, asked for it and the Township of Kingswood was given them.¹ The land speculators, and they were as numerous in proportion to population in one province as in the other, saw on the one side a fruitful field for future exploitation removed, and on the other a large territory added for their operations, which increased the tension between the contending parties.

¹ Belknap, *History of New Hampshire* (Boston, 1813), II. 99.

The tone of the Petition is bitter, almost vindictive, and abounds in harsh epithets which detract from the dignity of statement usually found in such documents. The grounds and history of the controversy do not account for this feature of the petition, and there was much more behind it. There were divisions and quarrels and quarrels within quarrels in which Governor Belcher was a party. Five of his eleven Councillors were personally hostile to him and seeking his overthrow. The Council and Assembly were at odds with each other. The Governor had become involved in a sharp controversy with the King's surveyor of the forests over the exploitation of timber reserved for the Navy. The intercourse between the Governor and Assembly had at times been acrimonious, and charges of disrespect, neglect and bad faith had passed back and forth between them; and between the Governor and his Lieutenant Governor, Dunbar, there was a bitter quarrel. There was the standing dispute about salary and the provision for and payment thereof. The Governor even had his enemies in Massachusetts, raised up by his attitude upon the Land Bank question. This personal hostility was cordially reciprocated by the Governor. In his correspondence with his New Hampshire friends he states his opinions freely. Here are a few of his choice expressions about those who were trying to thwart him. In a letter dated April 20, 1734, to the Secretary of the Council of New Hampshire, Richard Waldron, he thus writes of his Council, "As to the pusillanimous Wretches [referring to certain members] from whom we want assistance — What shall we say or what shall we do? five have been lately admitted by your approbation, but except yourself, you say no man open'd his Jaws. When our friends have all the Places of Profit and Honour, and yet are useless, I again say, What shall we do? What made the old — go out of Town instead of Being at his Duty."¹ He spoke of Shadrack Walton, acting President of the Council, in the same letter, as "a despicable mortal" and of Arthur Slade, a prominent man of the day, as "Old Slade." Lieutenant Governor Dunbar is always referred to in his correspondence under the epithet of "Sancho." He thus expresses himself about Ellis Huske, another of his Council: "I have a fine time of it That I must make old H—— a Collonial Treas-

¹ *N. H. State Papers*, iv. 872.

urer and Clerk of the Court, and yet he must be such a poor, unthinking — as that if a Governor does not take notice of a worthless Hound that chimes in with all that would cut his throat, the old Fool forsooth must be afronted.”¹

No doubt these sentiments were cordially reciprocated, and they certainly show the depth and breadth of the love between the parties to the issue, and sufficiently explain the language of Wiggin’s complaint.

The Wiggin Petition was referred to the Privy Council, which, December 27, 1739, after reciting the charges of the complaint, reported that the

Governor hath Acted with great Partiallity By proroguing the Assembly of New Hampshire from the 6th of July, 1737, to the 4th of August following being three days beyond the time appointed for Opening the Commission. In Disobedience to your Majesty’s Order in Council which had been transmitted to him by the Lord Commissioners for Trade and Plantations and which was Proved to have been delivered to him in due time. And also by further proroguing the said Assembly from the 2nd of September 1737 to the 13th day of October following whereby the said Province of New Hampshire were deprived of the time intended by your Majesty’s aforementioned Order in Council to be allowed them to Consider of the Determination of the said Commissioners and (if they found themselves aggrieved thereby) to prepare a proper and regular appeal therefrom to your Majesty in Council, in Order to a final Determination of the matters in Dispute between the said Province and that of Massachusetts Bay, and thereby to frustrate the intentions of your Majesty’s said Commission.²

The conclusions of the Council contain no allusion to the grant of the township of Kingswood. This report received the approval of the King, and though nothing further came of the petition, the royal indorsement of its findings marked the beginning of the end of the debate.

The same year, however, John Thomlinson, the London Agent of New Hampshire, in behalf of its Assembly filed a Petition to the King and Council setting forth the same, along with other grievances in great detail, except that it makes no allusion to this grant of land, and concludes with a request that the Province “be immediately freed from being any longer

¹ *N. H. State Papers*, iv, 876.

² Page 206, *infra*.

under the most oppressive Government of said Jonathan Belcher, And may be put under the command of a separate Governour (and not under the same Governour as the Massachusetts Bay) and may have all such other Relief as to your Majesty's great Justice and Wisdom shall seem meet." ¹

The next year (1740) Joseph Gulston, Contractor for supplying masts for the Royal Navy, Benning Wentworth of the Council, and Richard Chapman and John Thomlinson filed another petition asking for a separation of the Provinces. The grounds of the request are different from those set forth in the other petitions. It was presented after the decision of the King and Council upon the Boundary question, and alleges among other things that by the verdict the Province of New Hampshire had been largely extended and was amply able to support a government and provide for the defence of the province and the protection of trade, and prayed to be made an independent Province.²

All these petitions were bitterly fought by Governor Belcher and his friends both in this country and England, and counter petitions, complaints and memorials were laid before the Council. But they did not avail; New Hampshire was separated from Massachusetts, Belcher was removed from the Governorship of the smaller Province, and the grant of the Township of Kingswood was revoked.

PETITION TO THE KING.³

To the King's most Excellent Majesty in Council.

We your Majesty's most dutiful and loyal subjects the Representatives of your Majesty's Province of New Hampshire in New England, do prostrate ourselves at your Majesty's feet, humbly beseeching your Royal Majesty in Council to take under your wise Consideration the distressed and deplorable Condition of the said Province, now groaning under most unhappy Circumstances, thro' the arbitrary and partial Administration of our present Governor, abetted by a Majority of the Council, Persons promoted to that Honour and Trust upon his Recommendation, devoted to his Interest, and subservient to his Directions, tho' never so unreasonable, and notoriously detrimental to the Prosperity and Welfare of your Majesty's

¹ *N. H. State Papers*, v. 921-925.

² *Ib.* xix. 471.

³ The original is in the Library of Congress, Washington, D. C.

Province: This is evident, from the Non-concurring for five Years past the most wholsome Laws the House of Representatives could devise, from the frequent Dissolutions of the several Houses during that Time, and from the reproachful and opprobrious Speeches the several Dissolutions were attended with, sometimes from the Governor, at other times from the Council, calculated (as we apprehend) to create Divisions, Feuds and Animosities amongst your Majesty's good subjects, heretofore the Envy of their Neighbors for their mutual Love and Unanimity, and Strangers to intestine Jars, before Governor Belcher's Arrival amongst us.

That these Grievances have not before now been represented to your Majesty in Council, was not owing to an Insensibility of the Hardships we sustained, (the contrary is evident from a Vote of the late House of Representatives, Nemine Contradicente, That Governor Belcher's Administration was a Grievance; and a Committee was accordingly appointed to remonstrate the same) but an Unwillingness to be troublesome to your Majesty, and some flattering Hopes of an amicable Accommodation among ourselves. But the surprizing Behaviour of his Excellency, and a Majority of the Council at our late Sessions, appointed by your Majesty's special Command to be held at Hampton, (for the more convenient attending upon the Commissioners constituted by your Majesty to settle the disputed Lines between this Province and that of the Massachusetts Bay) has frustrated all our Expectations, and affords us a melancholy Prospect of impending Ruin, if not timely prevented by your Majesty's Goodness and Authority, the most effectual Steps being taken by the Governor, and a Majority of the Council, to render your Majesty's gracious Purposes fruitless, (with respect to the settling the boundary Lines between the two Provinces) and this House odious and contemptible, which, in our Apprehension, is apparent from the following Considerations.

We should trespass on your Majesty's Patience, were we to enumerate the Oppressions and Hardships from time to time exercised by the Massachusetts Government on your Majesty's good Subjects of this Province, inhabiting several miles within the disputed Lines: This their Injustice most flagrantly appears from their own Demands exhibited to the Commissioners, where their Claims fall some Miles short of those Places over which they have usurped Jurisdiction. But we forbear Repetition, these Encroachments having already been laid before your Majesty in Council by our Agent; in Consequence of which (as the most speedy and effectual Method to relieve the Distressed) your Majesty in Council was most graciously pleased to constitute, under the Great Seal, certain Commissioners to make out

the boundary Lines, the Heads of which Commission his Excellency [gave] to this House at their Sessions in April last. In Obedience to which, with Hearts full of Gratitude, we immediately resolved to contribute what in us lay to expedite that important Affair, by a punctual Compliance with all your Majesty's Instructions, and a suitable Preparation for the honourable Commissioners; when, to our great Surprise and Disappointment, (before any necessary Step could be taken in Obedience to your Majesty's Commission) we were prorogued to the 6th day of July, and again further prorogued to the 4th of August, and again, by Orders from the Governor at Boston, prorogued by the President of the Council to the 10th of the said Month; by which Prorogations the Governor's Design too plainly appears of frustrating your Majesty's gracious Intentions, and delivering us up a Prey to our Adversaries, his favoured Province of the Massachusetts Bay. We conceive nothing else could move him to deprive us of all Opportunities of making the necessary Preparations against the appointed Day, but a premeditated Design to embarrass and perplex our Affairs; in order to which, upon his meeting us at Hampton, (ten Days after the Commissioners first meeting) he recommends the Choice of two publick Officers residing within the Province, on either of whom, or at whose Places of Abode any Notices, Summons's, or final judgement of the said Commissioners might be served or left, though knowing at the same time that the Committee appointed by the General Assembly to attend the said Commissioners, pursuant to your Majesty's Commission, and as was absolutely necessary to be done, had, on the first Day of the Commissioners, appointed such Officers, who were accordingly accepted and recorded. This we think was evidently throwing Difficulties in our Way; the Design of which (we apprehend) must have been to possess the Commissioners with a Notion of the Illegality of accepting such Officers so appointed: The Consequence of which must have proved fatal to us, had it had its desired Effect; for thereby we should (as we conceive) have been excluded from the right of exhibiting our Claims, which, consistently with your Majesty's Commission, were to be preferred at the first Meeting of the Commissioners, and the Commissioners laid under a Necessity of proceeding *ex parte*, and granting the Massachusetts unreasonable Demands. Nor have the Governor and a Majority of the Council been less industrious, during the whole Sessions, in defeating all the prudent and well-advised Measures we could fall upon towards issuing speedily this important Affair; everything proposed by this House was disagreeable; all Votes non-concurred; no Money to be had towards defraying the Expences necessarily attending such an

Affair, nor Agent appointed by Concurrence of both Houses, nor Money to prosecute before your Majesty in Council. These deplorable Circumstances we are now reduced to; and where must we seek Succour in our Extremity, but from your most gracious Majesty? In Confidence of which, we throw ourselves at your Majesty's Feet, and beg leave to further assure your Majesty, that, as your Commission was received with universal Joy, so were all necessary Steps taken by this House to make it effectual, but unhappily defeated by the Governor and Council. We might mention many more Grievances; but fearing we have trespassed too much on your Majesty's Patience, beg leave only to mention, that immediately after the Commissioners had made up their Judgement, and before we could obtain a copy thereof, the Governor prorogued the General Court of this Province to the Day before the Commissioners had adjourned their Court, as their last Day to receive Appeals or Exceptions from either Government that thought themselves aggrieved at their Judgement; so that we had only part of one Day to prepare our Appeal, which stripped us of the Benefit intended by the six Weeks Adjournment directed in your Majesty's Commission. This we look upon as a Hardship, especially knowing that the Massachusetts Court was kept sitting until they had prepared their Appeal, voted Money to carry it on, and Agents to pursue it. These things have been denied us, contrary to your Majesty's Intentions, signified by your Commission, and to the Peace and Welfare of this Province, and those Persons with whom your Majesty hath intrusted the Power of granting the unappropriated Land within this Province, and who have, since the Judgement of the Commissioners, granted the only Tract of Land unappropriated, and out of Controversy, to Persons, the most of whom were great Opposers of the Settlement of the Lines, and who never contributed one Penny toward the Charge that hath attended it. Innumerable Instances of this Nature induce us to supplicate your Majesty for Relief. We humbly beg you'd graciously be pleased to receive from our Agent, John Thomlinson, Esq; the Proofs of the several Matters herein alledged, and such further Information as may be necessary to set our melancholy Circumstances in a true Light; which your Majesty's good Subjects, the Inhabitants of this your Majesty's poor little distressed loyal Province, not doubting but, as your tender Regard reaches the most remote of your Subjects, we shall not be thought unworthy of your Royal Favour, and that you will grant us such speedy Relief as in your Royal Goodness shall seem meet: Which to the latest Posterity, will clearfully be acknowledged by the unfeigned Behaviour, and the most dutiful loyal Regards of,

May it please your Majesty, Your Majesty's most Humble, Most Dutiful and Loyal Subjects,

AND. WIGGIN, J. RINDGE, SAM. SMITH, JOHN SMITH, J. ODIORNE, Jun. THO. PACKER, GEO. WALTON,	<i>Committee of and in the Behalf of the House of Repre- sentatives of the Govern- ment of New Hamp- shire.</i>
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Province of New Hampshire in New England in America, November 4, 1737.

REPORT OF THE PRIVY COUNCIL.¹

21 November, 1739. (Committee report. The petition of the representatives sets forth)

That Jonathan Belcher, Esq., their present Governor hath been guilty of Arbitrary and partial proceedings in his Administration, abetted thereto by a Majority of the Council, consisting of Persons promoted to that Honour and Trust upon his Recommendation; In nonconcurring for five Years past the most wholesome Laws the House of Representatives could devise; In causing frequent Dissolutions to be made of the several Houses during that time; and In making reproachfull and Opprobrious Speeches upon the said several Dissolutions. And further Setting forth amongst other things, that several Encroachments having been from time to time made by the Province of the Massachusetts Bay upon the Lands belonging to the province of New Hampshire, the Petitioners were Obliged some Years since to lay the same Humbly before Your Majesty. Whereupon Your Majesty was graciously pleased to Constitute under the Great Seal certain Commissioners to make out the Boundary Lines, the Heads of which Commission the Governor communicated to the House of Representatives at their Sessions in April 1737; in Obedience to which they immediately resolved to contribute what in them lay to expedite that important Affair, by a punctual Compliance with all your Majesty's Instructions and a Suitable preparation for the Commissioners. When to their great Surprize and Disappointment (before any necessary Step could be taken in Obedience to Your Majesty's Commission) they were prorogued to the 6th day of July, and again further prorogued to the 4th of August, and again by Orders from the Governor at Boston prorogued by the President of the Council to the 10th of the said Month, by which Prorogations the Governor's design too plainly

¹ *Acts of the Privy Council, Colonial, III. 1720-1745, 594.*

appeared of frustrating Your Majesty's Gracious Intentions, and delivering them up a Prey to their adversaries the Province of the Massachusetts Bay. The Petitioners conceive nothing else could move him to deprive them of all Opportunitys of making the necessary Preparations against the appointed day but a premeditated Design to embarrass and perplex their Affairs; in Order to which upon the said Governor's meeting the House of Representatives at Hampton (ten days after the Commissioners first Meeting) he recommended the Choice of two Publick Officers residing within the Province, on either of whom or at whose Places of Abode any Notices Summons's or final Judgment of the said Commissioners might be served or left; though knowing at the same time that the Committee appointed by the General Assembly to Attend the said Commissioners pursuant to Your Majesty's Commission, and as was absolutely necessary to be done, had on the first day of the Commissioners Meeting appointed such Officers, who were accordingly accepted and Recorded. This the Petitioners think was evidently throwing difficultys in their way, the design of which (they apprehend) must have been to possess the Commissioners with a notion of the Illegality of accepting such Officers so appointed, the Consequence of which must have proved fatal to New Hampshire had it had its desired effect; for thereby they should have been excluded from the Right of exhibiting their Claims which, consistently with Your Majesty's Commission, were to be preferred at the first Meeting of the Commissioners, and the Commissioners laid under a necessity of proceeding *ex parte* and granting the Massachusetts unreasonable Demands. Nor have the Governor and a Majority of the Council been less industrious during the whole Sessions in defeating all the prudent and well advised Measures the Representatives of New Hampshire could fall upon towards issuing Speedily this important Affair. Every thing proposed by the House of Representatives of New Hampshire was disagreeable, All Votes Nonconcurred, No Money to be had towards defraying the Expences necessarily Attending such an Affair, Nor Agent appointed by Concurrence of both Houses, Nor Money to prosecute before Your Majesty in Council. That all necessary Steps were taken by the House of Representatives of New Hampshire to make Your Majesty's Commission effectual, but unhappily defeated by the Governor and Council. That immediately after the Commissioners had made up their Judgment, and before the Petitioners could obtain a Copy thereof, the Governor prorogued the General Court of the said province of New Hampshire to the day before the Commissioners had adjourned their Court as their last day to receive Appeals or Exceptions from either Government that thought themselves aggrieved

at their Judgment, so that the Petitioners had only part of One day to prepare their Appeal, which Stripped the Petitioners of the benefit intended by the Six Weeks Adjournment directed in Your Majesty's Commission. This the Petitioners look upon as a hardship especially knowing the Massachusetts Court was kept sitting till they had prepared their Appeal, Voted Money to carry it on and Agents to pursue it. These things have been denied to New Hampshire, contrary to Your Majestys Intentions Signified by Your Commission and to the Peace and Welfare of the said Province, and by those persons to whom Your Majesty hath intrusted the Power of granting the unappropriated Land within the said Province of New Hampshire, and who have since the Judgment of the said Commissioners granted the only Tract of unappropriated Land within the said Province and out of Controversy, to Persons the most of whom were great Opposers of the Settlement of the Lines, and who never contributed one penny towards the Charge that hath attended it. Innumerable instances of this Nature induce the Petitioners to Supplicate Your Majesty for Relief. (The Committee, after full hearing and examination of evidence, agree to report), That it appears to their Lordships that the Governor hath Acted with great Partiallity By proroguing the Assembly of New Hampshire from the 6th of July, 1737, to the 4th of August following, being three days beyond the time appointed for Opening the Commission, in Disobedience to Your Majesty's Order in Council which had been transmitted to him by the Lords Commissioners for Trade and Plantations and which was Proved to have been delivered to him in due time. And also by further proroguing the said Assembly from the 2d of September, 1737, to the 13th day of October following, whereby the said Province of New Hampshire were deprived of the time intended by Your Majesty's aforementioned Order in Council to be allowed them to Consider of the Determination of the said Commissioners and (if they found themselves aggrieved thereby) to prepare a proper and regular Appeal therefrom to Your Majesty in Council, in Order to a final Determination of the matters in Dispute between the said Province and that of the Massachusetts Bay, and thereby to frustrate the intention of Your Majesty's said Commission. (vi. 399-402.) (1739) George II.

Col. W. R. LIVERMORE read a portion of a chapter in his volume, the "Story of the Civil War," about to be published, dealing with the second day of the battle of Gettysburg, in continuation of his paper read in December, 1910.¹ He

¹ *Proceedings*, XLIV. 223.

illustrated the position and movements of the opposing forces upon an elaborate map of the battlefield, and gave a detailed account of the part played by each brigade, corps and regiment.

Mr. SANBORN presented a paper on

CHURCHMEN ON THE PASCATAQUA, 1650-1690.

There are points in the early history of Northern New England, in which the indefinite and much-disputed patents of Mason, Gorges and others were located, before any proper determination of latitude or longitude was made in that wilderness, which I have never seen fairly elucidated and presented as a whole, in the many books and papers published in the three States, Maine, Massachusetts and New Hampshire, to which those patents were ultimately confined. During their continuance as subjects of colonization and controversy, many important changes were made in the religious and political constitution of Great Britain and her Colonies. The parties that failed to carry their point in these changes often ceased to have their cause continued in memory, whether it were good or bad, according to the good old rule of *Væ Victis*. It is not every lost cause that contrives to keep itself before tribunals of public opinion so persistently as have those of the Tories in our first Revolution, and of the Slaveholders in our second great Revolution, now frequently offered for justification or sophistry. I do not appear today as the advocate of that party, hostile to the New England Puritans, whose leaders, often supported by powerful forces in the mother country, sought to uphold here the doctrines of the Church of England and the absolutist and oligarchic principles of the Stuart family in Great Britain. But I wish their New England partisans in the seventeenth century, along the banks of the Pascataqua and the shores of Maine and Massachusetts, to have their case impartially considered, and the character of the men themselves more clearly represented, than could be done during the violent and bloody struggles of that and the succeeding century. So far as I know, few of my ancestors were of this defeated party, while I am genealogically connected with several of the opposition to their measures; one of whom suffered more than three years' impris-

onment in the Tower of London, for a demonstration in arms of his opposition. I am therefore as impartial in the case as could reasonably be expected in the present age, so much given to the worship of ancestors.

The Puritans, when colonizing Massachusetts and Connecticut, looked upon this region as a refuge for their religious and political party, should it be defeated in Great Britain; and did in fact use it as such after the Restoration of the Stuarts, for a few decades. The aristocratic party in Church and State, on the contrary, naturally wished to establish here their system of a State Church, of lands held in large estates, and of titles of honor, rising in rank from the simple Knight and Baronet to the higher degrees of Baron, Earl, Marquis, Duke, and even Prince. Had Charles II succeeded in his scheme of uniting Maine and New Hampshire in one province, under the control of his bastard son, the Duke of Monmouth, he would probably have conferred on so large a landlord the rank of "Prince." Charles's brother, the Duke of York, did for a time exercise seigniorial rights over the Province of New York and the Elizabeth Islands in Buzzard's Bay, whence that jurisdiction, when it became a part of Massachusetts, retained its name of "The Duke's County." Care was taken in the unrealized Charter granted by Charles I in 1635 to Captain John Mason and his heirs, but which never "passed the seals," that the inferior titles could be bestowed by the ruler of the proposed County Palatine, or by the Governor-general of all New England; — the reason assigned being "lest the way to honor and renown might seem difficult and hard to find in so remote and far distant a country." Mason and his heirs were to have power, also, to create villages into boroughs, and boroughs into cities; and to hold

all the advowsons and patronages of churches whatsoever, to be erected within the said tracts; with license and ability there to build and found churches, chapels and oratories, and to cause the same to be dedicated or consecrated according to the ecclesiastical laws of England . . . And we do declare and ordain that the said Province of New Hampshire shall be immediately subject to our Crown of England, and dependent upon the same forever.¹

¹ Sanborn, *History of New Hampshire*, 13, 15.

Although this scheme never took effect, and though John Mason soon died, and his partner, Sir F. Gorges, was never able, after 1635, to follow up his opportunities in New England, the wills of these grantees provided for church glebes, for submission to English Bishops, and for the holding of land in enormous estates, with ground-rent for purchasers, and tenant-service for such as lived on the estate without purchase.

Captain John Mason himself, a vigorous and wealthy person, expected to double and treble his wealth by disposing of his early grants of New England territory, which had been given him to satisfy debts that James I had incurred by employing Mason in the naval service around Scotland. Charles I further paid him by giving him the governorship of Portsmouth Castle, which commanded the important naval station and channel town of Portsmouth; and it was at Mason's house there that Buckingham, the unprincipled favorite of James and Charles, was assassinated in August, 1628. Seven years later, Mason, now appointed Vice-Admiral of New England, was coming over to look after his lands and his Portsmouth colony, and to keep the Puritans in order. But his ship met with an accident, and he died himself, before he could set sail. He left his American lands to his grandson, Robert Tufton, who was to take the name of Mason, and come over here to look after the property. Sir Ferdinando Gorges had already sent over a kinsman to take charge of his Maine property, which was to have a fine manor or capital town, near Agamenticus, called Gorgeana. The Revolution of 1640 intervened (called by Clarendon "the Great Rebellion"); Sir Ferdinando lost his ready money, upholding the King's cause, and soon died himself. The Mason property suffered in the same period, and it was under the government of Oliver Cromwell, in 1651, that Mrs. Mason, the widow of John and grandmother of Robert, sent a kinsman, Joseph Mason, to Portsmouth and Boston, to revive the family interests in New England. He made little headway, and it was not till the Restoration of the Stuarts under Charles II that Robert Mason saw a way to recover and profit by his inherited estate in New Hampshire. By that time (1659-60) Massachusetts had full possession of Maine and New Hampshire, as parts of her jurisdiction, and had no inclination to restore Mason or the Gorges family to their charter privileges. Accordingly the

restored king was urged, and consented, to appoint, in 1664, a royal commission, to hear and pass upon the complaints of colonists as to the misgovernment to which they were subjected by the Puritans of Massachusetts. These commissioners, who were Maverick, a former planter near Boston, and Nicolls, Carr and Cartwright, official persons in other Colonies, came over in 1665. They found here, or brought with them, either at once or in their train, several active promoters of the cause of Mason, Gorges and their heirs, — of whom the chief were, named alphabetically, though not in the order of coming over, Colonel John Archdale, Captain and Dr. Walter Barefoote, Captain Francis Champernowne, Dr. Henry Greenland, Robert Mason, Esq. and Nicholas Shapleigh; who for the next twenty-five years, along with Edward Randolph, a distant cousin of Mason, continued to give trouble to the Massachusetts and New Hampshire Puritans, until the last of the seven ceased, either by death or departure, to contest the Massachusetts right to govern the three provinces, now constituting Maine, New Hampshire and Massachusetts. Of these persons and their acts and characters, the following is a historical summary.

I. Col. *John Archdale*. He was a country gentleman, whose sister had married one of the Gorges family. Born about 1640, he came over to Pascataqua in 1664, to look after the possessions and claims of his sister's kinsmen in Maine. He soon bought land in Kittery and elsewhere, and seems to have resided in that neighborhood, perhaps with occasional visits to England and the West Indies, until he sold his Maine property, and became one of the proprietors of South Carolina, about 1680. He held property there in right of his son and in his own right, and late in the seventeenth century he was made Governor of South Carolina, to end the quarrels among the factious people settled there, as he successfully did. At some time before 1680 he became a Quaker, as Major Shapleigh did, and was one of those who gravely resented the persecution of the Quakers by Massachusetts. He sided with Barefoote, Champernowne and Randolph, in their efforts to throw off the Puritan domination in the Pascataqua region, but took no active part therein; being, apparently, a peaceable, judicious person, of learning and property, who took the part of good government wherever he dwelt. Originally a Churchman, he joined the Dissenters as

a Quaker, and stoutly maintained their cause in Carolina against the factious Anglicans, who there refused to the Dissenters all civil office, and made trouble in various ways. He outlived all his Pascataqua associates, and died in England about 1710.¹

II. Dr. *Walter Barefoote*. This notable personage, a real thorn in the flesh to the Puritans of Ipswich, Dover, Portsmouth and Boston Bay, would seem to have been the grandson of a Puritan minister of some note in England, and to have lived either in London (where his father, John, was a merchant), or in the county of Essex near London, before coming over to Kittery about 1656-57. He was a surgeon ("chirurgeon") by profession, a captain by title, and may have held that rank in Cromwell's navy, or else served as surgeon there. He had ready money on his first appearance in the Maine records, having bought for cash the pay-certificates of seamen in the navy (at Kittery), and soon after was a buyer of land in York County.²

He was the scion of a mercantile family in London, the head of which for more than a century held the ancient manor of Lambourn on the Roding River in Essex; was a free liver and jovial, who soon established himself as a physician at Dover, near his brother-in-law, Thomas Wiggin, Jr., who had married

¹ Much light has been thrown on the career of John Archdale by recent publications in South Carolina and in England. He published pamphlets in his later English life, describing the troubled years of the Carolinas while he was a proprietor there; and was aided in this paper controversy by the novelist Defoe, himself a Dissenter, who introduced elements of fiction into his writings of every sort. Dr. Rufus Jones, of Haverford College, Philadelphia, has made much mention of Archdale in his excellent volume, *The Quakers in the American Colonies*, in which he shows him as "the chief gentleman of Chipping Wycombe" when at home, but active also in Carolina affairs for some twenty-five years. It is worth mentioning that several Pascataqua families, connected with Champernowne by his marriage with the widow of Robert Cutt, — the Elliotts, Scrivenses, etc., migrated to South Carolina, along with Mrs. Champernowne, after the Captain's death and burial in the spring of 1687. By his will, in 1686, when he was seventy-two years old, Champernowne made his wife's grandson, C. Elliott, his heir, giving to him "all the lands of right belonging unto me, or that may belong unto me either in Old England or in New England, not by me already disposed of," showing that he still had property and expectations in his native Devonshire.

² The date of Barefoote's birth is not known, but it must have been as early as 1630. From 1657 to his death in 1688, he was the most litigating and scandal-raising personage connected with the Pascataqua region, whether as doctor, captain, prisoner and prison-keeper, deputy governor, land speculator or chief justice. His education was good, he wrote a good hand, and was fond of signing his unusual name — otherwise Barford in England — with a flourish of the pen.

Sarah Barefoote, Walter's sister. They were Anglicans, and friends of Champernowne and Randolph, the former going bail for Barefoote in one of his frequent arrests for debt, assault or other offence. He was accused by the Puritans of having left a wife in London when he migrated, to which a certain Davis testified, in 1676 (when Massachusetts wished to make out a case against Barefoote), as follows:

In the year 1662, being in England, there came to my lodging a woman who said she was the wife of one Walter Barefoot in New England: . . . said she was in a very low condition and desired me to get him to send her some maintenance, for she had two children to maintain, and had no subsistence for them. Further, there came an ancient man to me, who said Walter Barefoot was a very knave, in that, desiring him to be security for him to a merchant in Mark Lane, for linens he had of him, Barefoot did never send pay for the same; so that the old man was forced to lie in the King's Bench, a prisoner, as he said. These things I acquainted Mr. Barefoot with, when I came over; who owned the linens he had taken up.

In his will of 1688 Barefoote made no mention of any wife and children, though he left a large estate, mainly to his sister, Mrs. Wiggin. He is probably buried among the Wiggins, at Sandy Point in Stratham, having no other near relatives in America. He died at Great Island (New Castle) in his own house, the island where he had many adventures, guarding prisoners of the Province, and being a prisoner there himself, as well as at Hampton and Dover, in some of his many lawsuits and affrays. He was from the first a landholder, as well as a practising physician of note; bought land of Colonel Archdale and of Captain Champernowne, leased land of Mason, bought saw-mills of Harlakenden Symonds, the brother-in-law of John Winthrop the younger, and was mixed up in suits with many of the prominent planters of New Hampshire, Maine and Massachusetts. In a dispute of 1674, while Barefoote was still a practising physician at Dover, he became involved with the Hiltons of Exeter, and was carried away to the Hampton jail, after a scene in the Dover jail which is depicted with much liveliness in the depositions on record at Concord, New Hampshire. The Hampton constable, Christopher Palmer, acting for the Hiltons, went with an arresting *posse* to Dr. Barefoote's house in Dover, and persuaded him to go along with them to the

jail, and release upon bail two Hiltons there imprisoned, under Jeremiah Tibbetts, the jailer. With great good-humor the Doctor went along, and took a gallon of perry, to celebrate the armistice in the lawsuit by treating the company. Young Tibbetts, the jailer's son, then testified:

They brought with them a runlet of perry, which Capt. Barefoote brought to drink with them, as he said; and so long as it lasted they were very merry. But presently, after it was ended, there was a great noise, — Captain B. lying on the ground, saying, he would not go, for he was in a prison already, where he would abide; but said Christopher Palmer answered, he was *his* prisoner, pulling him very rough and rudely.

Palmer himself described the scene by saying that when he arrested Barefoote upon a proper warrant, "he laid himself along the floor at Jeremiah Tibbetts' house, *more like a pig than a captain.*" Pig or captain, Palmer put him in a boat, and as he sailed down the stream and came near Captain Champernowne's great farm of "Greenland" on the Great Bay, Champernowne brought the party to, and offered bail for his friend, which Palmer refused; and then carried him across the country to Hampton jail, whence Barefoote wrote an indignant protest to the Massachusetts authorities, quoting their own statutes to them and demanding his release. He was taken to Hampton, September 21, 1674, and, as John Souter, the Hampton jailer, testified: "I saw him lockt up into the Hampton prison of Norfolk County; and Christopher Palmer bade me go with them and lock the said Barefoote into the common gole, and bade me have a care of him, lest he should give me the slip."

A queer complication of this affair is that, in the May preceding, Dr. Barefoote had sued Palmer, in the same Hampton court, for "several physical and chirurgical medicines and visits, to the value of six pounds." In a previous controversy with the Hiltons, the old lady, Mrs. Katharine Hilton (born Shapleigh) swore that in Exeter (1670) "Captain Barefoote got a pistol or a sword or rapier, and drove the marshal away." Such affairs had early brought him into collision with the Massachusetts Puritans, who in 1671-73 tried to send him back to England. In 1671 the magistrates fined Barefoote 20 shillings "for his profaneness and horrid oaths," and went on to

decree thus: "It appearing that he left a wife and two children in England, we do sentence him to return to England by the first ship, and that he shall henceforth be debarred to practise chirurgery or physic in any part of this jurisdiction."

To this sentence Dr. Barefoote paid no regard, but continued to practise and send in bills, which were paid. The wonder is, that when they had him in prison in 1674, they did not undertake to enforce their own decree. But he seems to have been a chartered libertine, who could get into scrapes of all kinds without being seriously discredited by them. In the year 1678 the selectmen of Portsmouth, where Barefoote's political foes were in full control, and where Barefoote was then a citizen, made a singular agreement with him for the cure of one Richard Harvey who had lately broken his leg, with this condition:

If said Barefoote make a perfect cure, providing and finding all means at his own cost, except rum for steeps, which the Town is to find, and if he shall perfect the cure, he is to have for the same 20 pounds, all in money or merchantable white oak pipe-staves, at £3. 10s. per thousand; and if in case he performs not a perfect cure, he agrees to have nothing for his pains, more than the 20 shillings in money already paid him for what he has done for him this day.

It was a case of first aid to the injured, and indicates that Barefoote had reputation as a good surgeon, although so litigious and so ready to draw sword or pistol, and to swear great oaths, like other captains. His recalcitrancy against the persecuting Puritans, one of whom was his Dover neighbor, Major Waldron, a cruel old Indian trader and Indian fighter, first showed itself in 1662, when, by tradition (for I have found no written record of it), he interfered in Salisbury to have Major Pike, a magistrate of another county, discharge the three Quaker women, whom Waldron had sentenced to be whipped at the cart's tail in every town from Dover to the Rhode Island line. Such was the intent of his barbarous order; but Dr. Barefoote, by tradition, followed or met this lamentable procession in Salisbury, and there, with the connivance of Major Pike, took the women from the constable of Salisbury, under pretence of delivering them to the Newbury constable, and in Newbury, with the aid of another physician, Dr. Henry Greenland, bound up their wounds and set them free. About the

same time Waldron (December, 1662) implicated another of my list of Churchmen, Major Nicholas Shapleigh, living in what is now Eliot, with the Quakers, writing thus:

Major Shapleigh shelters all the Quakers that come into our parts, and followeth them where they meet. Which is not only a disturber upon that side [of the Pascataqua] but also on our side, where is but the river between. And so they come into our town, and presently they are gone over the river; and so his house is a harbor for them. And some say he is dictated by the little crooked Quaker [Edward Wharton]. Our town will be so disturbed with the Quakers and others that we shall hardly be at peace.

These "others" were the members of the Anglican Church, who kept insisting, under the restored Stuarts, that they were deprived of the rites of their religion and the use of the Book of Common Prayer. It can hardly be supposed that Barefoote and Greenland suffered greatly from lack of the Anglican ordinances; but others probably did. At any rate, a considerable number of the residents on both sides of the river united in a petition that they might have the use of the Prayer Book and other ordinances of the English Church. Moreover, in 1664-65, when Charles II sent over his first royal Commission, many of these residents signed a petition to Carr, Cartwright and Maverick, alleging that:

Your petitioners for several years last past have been kept under the Government of the Massachusetts by an usurped power whose laws are derogatory to the laws of England; under which power five or six of the richest men of this parish [Portsmouth] have ruled, swayed and ordered all offices, both civil and military, at their pleasures. . . . And at the election of such officers the aforesaid party, or the greatest part of them, have always kept themselves in offices for the managing of the gifts of lands and settling them; whereby they have engrossed the greatest part of the lands, within the precincts and limits of this plantation, into their own hands. . . . The parties we petition against are Joshua Moodey, Minister; Richard Cutt, John Cutt, Elias Stileman, Nathaniel Fryer, Brian Pendleton, Merchants.

Barefoote did not sign this petition, being then a citizen of Dover; but he took the same view of the situation, and there was too much reason for it. He was himself accused, a few

years later, of getting unjust possession of some 6,000 acres in New Hampshire, which one Captain Littlebury, in the North of England, alleged as belonging to himself, to cover an advance of three hundred pounds sterling to Mason and his associates in colonizing New Hampshire:

as an adventure there; for which in 1663 the survivors, Gardner and Eyres, had agreed to give him a fourth part of their property, — his promised share being 6,000 acres; but now he hath been deluded 3 years, to his great hindrance and damage, by Capt. Champernowne, Major Shapleigh, Dr. Barefoot, and other grand incendiaries to the present government.

Littlebury meant the government by Massachusetts, by which he was probably incited to make this claim, never heard of afterward, I think. He added, this Holy Island Captain, as an aggravation of his conduct, that "Shapleigh hath lately made leases of lands for 1,000 years, to Mr. Hilton of Exeter, Dr. Barefoote and others."

This introduces into political and religious controversy the celebrated Masonian claim to the whole of New Hampshire and parts of Maine and Massachusetts; which kept the courts of New England busy for a century and a half, until it was finally settled, soon after the Revolution, by a compromise with the State government of New Hampshire. Shapleigh, in making leases with ground-rent, was acting as the agent of Robert Mason in England; and by accepting his leases, Hilton and Barefoote placed themselves on the side of the English system of land tenure, with primogeniture and Episcopal church government, against which the Puritans were struggling. From that time forward — say 1666 — Barefoote was a sturdy and quarrelsome supporter of the Stuart policy.

Upon his arrest by Palmer of Hampton, Barefoote, in his long protest, quoted the following passage from the printed Body of Liberties of the Bay Colony:

"Forasmuch as the free fruition of such Liberties, Immunities and Privileges as humanity, civility and Christianity call for, as due to every man in his place and proportion, without impeachment and infringement, hath ever been, and ever will be, the tranquility and stability of churches and Commonwealth; and the denial or deprival thereof, the disturbance if not ruin of both, —

"It is therefore ordered by this Court, and the authority thereof, that no man's life shall be taken away, no man's honor or good name shall be stained, no man's person shall be arrested, restrained, banished, dismembered, nor any way punished; no man shall be deprived of his wife or children, no man's goods or estate shall be taken away from him, nor any way indamaged, under color of law, or countenance of authority, except it be by virtue or equity of some express law."

Consider [Barefoote goes on] whether a deputy named Christopher Palmer have not broken every tittle of this wholesome and express law. He cannot plead ignorance of the law, for it is well known that he hath been and is a known attorney and a malicious one: for in this very case, his malice — not regarding God nor the word of God, nor the authority who made these express bounds and laws, — he endeavored all in him lay to take away not only my honor or credit, but struck at my life, — if he could a' prevailed with the prison-keeper of Hampton, to a' kept me in the close dungeon, far remote from any house, — and said prison-keeper not able or willing to give me bread or anything to support life.

Nextly I shall instance the subtlety of this Deputy, — coming to my habitation, pleading friendship; so I entertained him as a friend with the best in the house. Then he invited me to go see Sam. and Charles Hilton in the prison, where they were prisoners; and I very willingly went with him to give them a visit, and carried along a two-gallon runlet of Perry. And when we were come to the prison-keeper's house, where the said Sam. and Charles Hilton were prisoners, I treated them civilly, and likewise they spoke civilly and courteously to me; and this Deputy still pretended great love to me till the Perry was all drank out, and then suddenly said Deputy claps hold on me, as if he meant violence to my person. I, being not willing to resist, but rather to expose my life than give occasion of offence to authority, did submit to his will, — he declaring he arrested me in an action of Sam. Hilton. Said Hilton being then by [present], did declare he never did give order to him for any such thing, nor did not know of it; and showed his dislike of what was done by said Deputy.

This meek submission of Barefoote to constituted authority contrasts vividly with his previous conduct in 1670-71, towards an honest Dogberry of a constable in Portsmouth, Henry Dering, who tried to arrest and imprison him upon an action of attachment brought by Abraham Corbett, for two suits, one for £1000 and the other for £150, and declined

to take bail for either, in fear of being swindled by Barefoote, who did not inspire confidence by his promises. With tiresome prolixity Dering tells the story of one eventful night on Great Island, while yet Barefoote lived in Dover, and only came down occasionally to the Piræus of old Portsmouth, which New Castle then was. But the upshot of it was thrilling. After an attempt to escape in a canoe, with the help of the aforesaid Charles Hilton, and while Dering mistrusted his prisoner;

the more by reason of his banishment out of the Jurisdiction, and his also telling me that he must be gone, and would ere long, but would return and answer that action; hearing that said Barefoote was ordered by the General Court to depart the Jurisdiction by a certain time, on the penalty of £20, and also not to practise physic under a fine of £100; and he having forfeited both.

Therefore Dering resolved to put Barefoote in prison; and was leading him along the island road for that purpose, when his *posse* was assaulted by Charles Hilton and his crew, trying to rescue Barefoote; who, grasping Dering by the neck-band, threw himself backward with so much force as almost to strangle Dering, who thus goes on:

And when said Swett had pulled Barefoot from me, I went to take hold of his shoulder again; and he going backward I missed my hold; and his band coming in the way of my closing, my hands took hold of it, and he going from me, it tore. Whereupon he was very angry, and began to come towards me, and to lay hands on me. And I, seeing him ketch at my neckcloth, which was twice about my neck, I went backward to shun that danger. But he making use of that advantage (I also having a candle and lanthorn in one of my hands) followed me to take hold of my neckcloth; but I went backward till Charles Hilton came behind me and kept me up to Barefoote. And then said B. took hold of my neckcloth, and going from me that he might have the better advantage to pull and choke me, I bid him let go, and requested Hilton to loose his hands from my neckcloth. But neither would he let go, nor Hilton cause him; and immediately either Hilton or George Swett struck the lanthorn out of my hand, with such a force that, although it was a new one scarcely used before, it broke, — I holding one piece in my hand and put it in my pocket, and showed it to the people after help came.

So when the light was out, I had more hands about me than Barefoot's, and I received a blow on the side of my head, so that it was swelled from the crown to my ear, — and very sore it was — and a great portion of the hair was pulled off. And how it came to pass I know not, for I was in a great measure deprived of my senses and understanding by reason of my being almost choked by Barefoot, with my neckcloth. But I presume it was this, — that B. perceiving that he, standing, could not quite choke me, fell down with his back on the ground, and up with one of his feet, and placing it against my breast, he, the said Barefoot, did with his hands pull my neckcloth, and thrust me away with his foot, so that he had almost made an end with me. I mean that he had almost killed me, whereby he might attain his purpose of escape from under the two said arrests. And when I perceived that Charles Hilton stood close by me, and would not help me; neither Barefoot let go, nor ease his force that he used to choke me, and that my life was even almost spent, — the Lord put it into my thoughts that, unless I could cry "Murder," I was there like to perish, — for indeed then my life required haste, — I bent myself down and pulled the said Barefoot's arms toward me. Whereby I got a little ease, and but a little; for, as I remember, in straining to get my wind out of my throat, the blood gushed out of my nose.

Yet this nose-bleeding Dogberry not only saved his own life, but took Barefoote away as his prisoner, by the help that came to him upon his outcry. All this Dering deposed before Elias Stileman, a kinsman of the Cutts, and one of the magnates of Portsmouth, in a Court of Associates held there, January 1, 1673. We shall hear more of "said Barefoote" later on.

III. Capt. *Francis Champernowne*. Earlier, and still more pronounced, was the support given by Champernowne, into whose ancient Norman family both Sir Humphrey Gilbert and Sir Walter Ralegh had married in the sixteenth century. They were all Devonshire people, and Gawan Champernowne, a cousin of Ralegh, was the grandfather of Francis, who was therefore a third cousin of Ralegh; the younger son of a titled family, who came to New England hoping to begin a titled family here. For, under the draft of a charter for Mason's Colony, made in 1635, but never in force, Capt. John Mason was to be a Count Palatine in New England, after the pattern of the Bishop of Durham in England.¹ As such (as already

¹ See p. 212, *supra*.

quoted) Mason was to have this imperfect charter (which bears the marks of Laud's contriving brain and the grasping despotism of Charles I), had it gone into full effect, and been followed up by a similar charter for Gorges in Maine, would have developed a landed and titled aristocracy, a church with tithes and rents, endowed schools dependent on the clergy, and the whole glittering parade of Church and State, which was the ambition and the unfulfilled dream of Charles, of Buckingham, of Wentworth and of Laud.¹

¹ In the copious Memoir of Francis Champernowne by C. W. Tuttle, it is shown that his grandfather, Gawen Champernowne, married to the daughter of that Count Montgomery who had the misfortune to give the king of France, Henry II, a mortal wound in a tournament, was first cousin of Raleigh, and served with him in the religious wars of France. Arthur Champernowne, father of Francis, was Raleigh's second cousin, and Francis himself, third cousin of Raleigh and his half-brother Gilbert, became, by Sir Ferdinando Gorges' second marriage, a nephew of that colonizer and grantee of Maine. When Francis was twenty-two years old, his father, Arthur, received from his brother-in-law, Gorges, grants of a thousand acres of land on or near Champernowne's Island in Maine. The following year, 1637, Francis came over (probably in company with young Lord Ley, with whom he afterward sailed as a naval captain in the fleet of Charles I), and took possession of his father's grant, half of which afterward became the property of Walter Barefoote. His own estate, for a few years after, was a tract of 400 acres on the Great Bay, which he called Greenland, long within the limits of Portsmouth; and he seems to have been residing there in October, 1640, when he was one of the signers of a "combination" for maintaining order and government, before New Hampshire came under the control of Massachusetts. After 1641 he disappears from the Pascataqua region for six or seven years, during which he probably served as captain under the command of the third Lord Ley who had become Earl of Marlborough, by the death of his grandfather, who was Milton's

Good Earl, once President
Of England's Council and her Treasury,
Who lived in both, unstained with gold or fee,
And left them both, more in himself content;
Till sad the breaking of that Parliament
Broke him, as that dishonest victory
At Chaeronea, fatal to liberty,
Killed with report that old man eloquent.

The young earl seems not to have been a Puritan, like his grandfather and aunt, the Lady Margaret, but sided with the king against the Parliament. Champernowne, though eight or ten years older than Marlborough, served under him, and when the king's cause became hopeless, Champernowne returned to Greenland about 1648; sold half of his father's island to a shipmaster named White, but the bargain fell through, and Francis then retired for a few years to Barbadoes, still retaining his citizenship in Portsmouth, where the town granted him 375 acres as a new farm, near his older one of Greenland, where he continued to live until about 1660. He then removed to the island named for him, and was

Champernowne had come over to Portsmouth with wealth enough to buy large tracts on both sides of the river. His farm, Greenland, on the Bay above Portsmouth, afterwards furnished a name for the parish and town so designated. His estate in Kittery included the island since known by the name of Cutts, and he is commemorated in the name of the hotel that now stands in Kittery by the waterside opposite New Castle. Though twice married, he left no surviving sons; his widow migrated to South Carolina, where he might have been more at home than among the yeomanry and merchants of the Pascataqua. He left his romantic name to his region, and the reputation of a genial, good citizen, to whom no scandals attached. He was technically and habitually a gentleman, void of the unscrupulous ambition that brought his distinguished cousin Raleigh to grief and to the scaffold.

IV. Dr. *Henry Greenland*. A very unlike person was Barefoote's friend and professional brother, Dr. Greenland. Like him, Greenland appears descended from a Puritan household, rather hard to identify, in spite of its unusual name. The two chirurgeons were friends in England; and Greenland, already married there, came over at a suggestion from Barefoote. Like Dr. Bernard Randolph of Oxford, father of Edward and Bernard Randolph, they were skilful physicians in their specialty; and, after his banishment to New Jersey, Greenland rose into social and political station. But in New England he

one of a commission named by young Ferdinando Gorges, lord-proprietor of Maine, to control and govern that Province in his name (May 23, 1661). His associates were Churchmen like himself, — Henry Jocelyn, son of Sir Thomas, Robert Jordan a clergyman, and Nicholas Shapleigh, son of Alexander, whose sister had married one of the Hiltons, early colonists at Exeter. This authority in 1664 was reinforced by a royal order from Charles II, — at which date (November 5, 1664), John Archdale, Edward Rishworth, Francis Raynes and Thomas Withers had been added to the commission, and Shapleigh had ceased to act, but remained of the Mason and Gorges party, to which had been added, since 1657, Dr. Barefoote. Now followed a turbulent period of controversy between the Massachusetts Puritans and the Church and Stuart interest in Maine and New Hampshire, in which Champernowne and his friends were alternately in control and under indictment. He and ten of his friends were made justices of the peace by the king's commissioners, Carr, Cartwright and Maverick, and controlled affairs (mainly) from June, 1665, to July, 1668, when Massachusetts by force re-established its jurisdiction over Maine, — the Churchmen always protesting, and standing by each other. Meantime Charles II had formed a plan in his indolent mind for uniting the two colonies into a principality for James Scott, Duke of Monmouth, which never took effect.

was out of place from the first. Appearing at Newburyport late in 1662, he lived for a time at the tavern of John Emery, a friend of Quakers, who, in March, 1664, was fined for entertaining "Dr. Henry Greenland, a stranger not having a legal residence in the town of Newbury." This fine was remitted upon the petition of the Selectmen and chief people of Newbury, — "considering the usefulness of Mr. Greenland, in respect of his practice in our town." It was further stated that

He was, by reason of his acquaintance with Capt. Barefoote, etc. inclinable to settle in the country, if he liked, — and to make use of his practice of Physic and Chirurgery amongst us. But, being as yet unsettled, and uncertain where to fix, until his wife (whom he hath sent for) did come, he was necessarily put upon it to reside near such patients as had put themselves in his hands for cure.

He was unprincipled and quarrelsome, like his Dover friend, and hardly seems genial, like Barefoote. In September, 1664, he was convicted of an assault on William Thomas and Richard Dole, in a Newbury tavern, and even earlier he was before the Essex County court on a charge of immorality. He sold his Newburyport house, at the corner of Market and Merrimac Streets, January 12, 1666, and removed to Kittery, where he bought land which he afterward sold to Barefoote. He had in the preceding year, 1665, got involved in a quarrel with Richard Cutt, the richest merchant in Portsmouth, as appears by entries in the record of the royal Commission of Cartwright, Carr and Maverick, sitting at Portsmouth in July, 1665, thus:

We do freely forgive Mr. Richard Cutt concerning any injury he might be supposed to have done us by some words which he was accused to have spoken against the King's Commissioners (about having a dagger put into their bellies or guts, or words to the like purpose.) And if the said Cutt never molest Thomas Wiggin of Dover, or Dr. Greenland of Newbury, for giving evidence against him, or for reporting him to be the author of such words, we promise never to produce those writings and evidences which they have sworn to before us, to his hurt or damage.

Thus the matter passed off for the time; but the animosity of Greenland continued for years, and in 1670 Captain Fountaine of the armed vessel *Mermaid*, then lying at the Shoals (May 28), wrote to Richard Cutt as follows:

About five days past there came on board of me one of your neighbors, by name Henry Greenland, who pretended some acquaintance with some of my men, especially with one Gardner, who he hath employed to speak to me about an unworthy design, as per the enclosed deposition you may know.

Deposition.

Robert Gardner, upon oath before John Hunking at the Shoals saith: That Mr. Henry Greenland said unto him that he would put our ship's company upon a brave purchase: which should be by the seizing on the person of Mr. Richard Cutt, and to carry him for England; and that it would be effected with a great deal of ease, by carrying the ship to Pascataway; and that a small number of our men might go and take himself, and cause him and his servants to carry down on their backs such money and goods as was there to be found. And he was sure the purchase would be worth £10,000; and he would maintain the doing thereof in point of law; for that the said Cutt had spoken treason against the King.

This and other evil words and deeds did so incense the Great and General Court at Boston that in June, 1672, the following record was made, and followed up until Dr. Greenland sailed away to Piscataway in New Jersey, taking the name of his region with him, and fastening it upon a coast town in that Colony:

Henry Greenland appearing before this Court, and being legally convicted of many high misdemeanors *i. e.* endeavoring to disturb His Majesty's government here settled, reviling the courts of justice and the magistrates in base and unworthy terms, and making quarrels and contentions among the people in a very perfidious manner, with profane cursing and swearing: is sentenced to pay a fine of 20 pounds in money, and to depart the limits of this jurisdiction within two months, next coming, and not to return again without the license of the General Court or Council: On penalty of being severely whipt 30 stripes, and to pay a fine of 100 pounds: and not to be admitted hereafter to be a surety or attorney in any legal process; and to stand committed until the fine of 20 pounds be satisfied.

His time of banishment was finally extended till September, 1673, and he thenceforth lived in Piscataway, New Jersey, dying there in 1695. He there owned property, bore the title of Captain, and left two children, Henry and Frances, who

made good marriages and left descendants now living, — one of whom, F. C. Cochran of Ithaca, New York, gives me this information. A grandson of Dr. Greenland, Barefoot Brinson, born about 1683, became high sheriff of Middlesex County, New Jersey. This name makes it probable that Greenland was a far-away cousin of Walter Barefoote; who was himself the grandson of Sarah Culverwell, wife of Thomas Barefoot of Lambourn in Essex, and daughter of a famous Puritan minister, Ezekiel Culverwell. Walter's father seems to have been John, a merchant in London.

V. Robert Mason, Esquire. This unlucky grandson of the grantee of New Hampshire, was the son of Anne Mason, who married a Tufton in England. On inheriting his grandfather's New England property, Robert took the name of Mason instead of Tufton. That name, however, continued to alternate with the name of Mason; and when the last single owner of the Masonian claims sold them to a syndicate at Portsmouth in 1746, he bore the double name of John Tufton Mason. He was the grandson of Catharine Wiggin, the daughter of Sarah Barefoote and Thomas Wiggin, who had married a son of Robert Mason, thus uniting the families of two of the subjects of this essay.

Robert Mason, grandson of John, was a second cousin of Edward Randolph, the great enemy of New England charters, who secured the abrogation of the Massachusetts charter, and held several offices under the Lords of Trade in England and in the royal governments of America. Had Mason possessed the energy and tact of Randolph, he might have perhaps come into full ownership of the lands he claimed; for he had on his side the English king and the English courts, although Massachusetts and the New Hampshire yeomanry were against him and thwarted him. He was a gentle, weak man, always in debt; like weak men in general, he alternated between moderation and violence, and drifted with the tide of events. Born in 1634, shortly before John Mason's death, he lived in England until about 30, leaving his New England claims to be handled by his grandmother and her agent, Joseph Mason, who in 1651 made a fair and manly effort to settle the dispute over the Mason property and claims with Massachusetts, which then had practical sway in New Hampshire. This failing, while the

representatives of Gorges in Maine appealed to Parliament in Cromwell's day, the Masons waited till the Restoration, and made their appeal as churchmen and loyalists to Charles II. He favored their cause, but acted, as they did, with little energy, and the matter dragged along till 1679, when Charles II made New Hampshire a separate Province, as his father had intended, and put Mason into the Council to assist his first royal Governor, Cranfield, in the control of the little colony, which then had less than 5,000 people, but was prosperous and growing fast. Mason was afterward made a Councillor in the government by Sir Edmund Andros, of New England and New York, and died at Kingston, N. Y., in 1686, while on a tour of duty in that office. He had long resided in New Hampshire, usually at Great Island, where, after 1682, Barefoote had a house and usually lived. But all Mason's opportunities availed him little; he always took things by the wrong handle, and the support of Randolph, who vibrated between England and New England, could not help the incapable heir forward. In October, 1685, Randolph wrote to a friend:

It is proposed that Mr. Mason should quit his pretensions in New England, and lay all at his Majesty's feet [James II] upon the King's making him governor of Bermuda, and allowing him and his heirs two or three hundred pounds yearly, forever, to be paid out of the quitrents. And now, since charters are at so low an ebb, I fear his grants will hardly hold out, upon a trial at the Council Board. His enemies have the larger purse.

At this time Randolph, who had generosity mingled with his animosities, was allowing Mason £20 a year, towards his maintenance. Two months before Mason's death in 1686, Randolph wrote from Boston: "My cousin Mason can make no progress in his business: he has attempted to try his title at Pascataqua, but has been delayed by the judges, and the inhabitants are far more obstinate than formerly; Mr. West, my deputy secretary, having told some of them that his title is little worth. . . . They are for leaving him out of all."

The year before Mason's death in the Province of New York he endured an assault in New Hampshire at the hands of Barefoote's brother-in-law, Thomas Wiggin of Dover, in spite of all that the Captain, now grown old, could do to protect him.

Mason testified in March, 1686, that on the 30th of December, 1685, after he had posted placards calling on the New Hampshire planters to recognize his rights as landlord, and pay their rents as required, two of the recalcitrants came to Barefoote's house on Great Island, — he being then Deputy Governor of the Province, — when a fray occurred, which has often been described.

VI. *Edward Randolph.* Although never a settled resident on the Pascataqua, or, indeed, anywhere else in the English Colonies, this gentleman (born at Canterbury, England, in July, 1632, and dying in one of the Southern or West India Colonies about 1704) was so closely, variously and persistently connected with the efforts to supplant Puritanism here by the Church of England, and to change our system of land tenure, that he was more formidable to the planters in New England of the Puritan faith and practice, than all of those already mentioned. He also outlived them nearly all, and was far more active and influential than any of them. His life and correspondence have been printed, but in so many volumes, and at such an interval between the first and the last, that few except close students of our early Colonial history are familiar with his busy, adventurous and malicious career. Edward was the son of Dr. Edmund Randolph, an educated physician, of University College, Oxford, and the nephew of John Randolph, ancestor of many of the Virginia Randolphs. His grandfather, Bernard Randolph, a wealthy clothier of Kent, married an heiress in that county, Jane Boddenham, and his descendants inherited her manor of Lessenden, and held it till the last Randolph (Rev. Herbert) sold it in 1808. Edmund, the fifth son of Bernard, was born in 1600, educated in medicine at Pavia, admitted *ad eundem* at Oxford in 1628, married Deborah, daughter of Giles Master of Canterbury, and spent his after life as a physician in that cathedral town. His monument in St. George's church there has a quaint Latin epitaph, which as it has been incorrectly punctuated in his son's life, I will here copy:

Edmundus Randolph, ex antiqua familia ortus, medicinæ doctor exercitatissimus, aliorum prolatando vitam, decurtavit suam.

Numerosa auctus prole, filiis decem, molliorisque sexus quinque, mundum simul ac domum locupletavit suam. Hisce libens, sociam dedit operam Deborah femina, si quæ alia spectatissima, Dni.

Ægidii Master, nuper de civitate Canturiæ, Armigeri, filia quarta,
uxor semper fida, semper impense dilecta.

Ultima Lethi
Vis rapuit rapietque gentes.¹

Edward seems to have been the second of these ten sons, with known brothers, Giles and Bernard, named for their two grandfathers, and both deputies of Edward at Boston in New England. Edward was educated to the bar, but seldom practised; the Revolution of 1640 interrupted his way of life, for he was on the losing side. Before the Restoration of Charles II he had married in his native county of Kent, Jane Gibbon, sister of Matthew Gibbon, great-grandfather of the historian Gibbon. Another of her brothers Gibbon married Anne Tufton, granddaughter of Captain John Mason,—so that Mrs. Edward Randolph was aunt of the unlucky Robert Mason, whom her husband calls “cousin.” Upon the Restoration Randolph began to get offices from the royal administrations, and Mason had his land-titles favored by the easy-going king, without deriving much benefit from that favor. Randolph, however, beginning as a commissioner to buy timber for the navy, in 1661, held one office after another for more than forty years, in course of which time he served four sovereigns, all Stuarts, and probably died in an onerous and ill-paid revenue office, which had brought him into incessant quarrels in every Colony from Maine to Carolina, and had made personal enemies from twenty to fifty, perhaps a hundred, important Colonial officials; against whom he had brought all sorts of charges of inefficiency or maladministration. He secured the abrogation of the Massachusetts Charter, and had previously procured the establishment of New Hampshire as a royal Province.

Randolph and his official friend in London, William Blath-

¹ This bit of Horace is from the 13th Ode of the Second Book, on sudden death; but in changing “improvisa” to Ultima, the copyist spoiled the poet’s quantity. Translated, the epitaph ran,—“Edmund Randolph, sprung from an ancient family, an all-experienced doctor of medicine, in prolonging the life of others abbreviated his own. Endowed with a numerous offspring, he enriched the world and his own household with ten sons and five of the softer sex. To these did his wife, Deborah, fourth daughter of Gyles Master Esq. late of Canterbury Town, Admirable among all women, joyfully give her domestic care.

Death’s sudden stroke,
Snatched and will snatch all folk.”

wayt (as he signed his name), procured the appointment of a needy spendthrift about the court of Charles II, as the first royal Governor of the Province of New Hampshire, upon an understanding that this Edward Cranfield, who hoped to make his fortune in New England, should share his gains with Blathwayt and one or two others in London. But he also may have had secret instructions from the king to promote the royal scheme of uniting Maine and New Hampshire in one principality for Monmouth. Cranfield's confidential letters to Blathwayt, published by the Prince Society, shed much light on the base character of this governor, and the bad faith of himself and Randolph toward each other and the public. Both took part with Robert Mason in his defeated attempt to hold New Hampshire as lord-proprietor; and Cranfield intimates that he was offered by Mason one of his daughters in marriage, with a good share of the rents of the Province as a dowry. He was also promised £150 a year by Mason for aiding him in the courts to collect his rents, and this seems to have been paid. It was one of the charges against Cranfield which led to his recall by the Earl of Halifax in 1685.

In Cranfield's efforts to raise money by illegal taxation, he was stoutly opposed by one of my ancestors, Edward Gove, who further undertook to make an armed demonstration against Cranfield and the Duke of York, early in 1683. It failed, whatever its real purpose was, and Gove, in February, 1683, was convicted of high treason, and ordered to England for execution, under the barbarous law of treason then in force. Randolph, who, in the exercise of his revenue office, crossed the Atlantic often, undertook to convey Gove to England for execution, and Cranfield, expecting to gain much money from the confiscation of his estate, wrote thus to Jenkins, secretary for the Plantations:

I send you on the ship Richard, under Mr. Randolph's care, Edward Gove, an assemblyman, who is condemned to death for raising a rebellion in this province. I intended to execute him here, for terror to the whole party, who are still mutinous, — had my commission allowed it. I cannot, with safety to myself and the province, keep Gove long in custody; for, because of the great expense of guards for him, I have reason to fear that he may escape. Moreover, by my commission I am ordered to send home rebels; and if Gove escape the sentence of the law, there is an end of the

king's government in New Hampshire. . . . I hope to keep the peace; but I beg that Mr. [Edward] Randolph may be sent back to me with a small frigate, to await orders; otherwise I can promise the king little success in the charge committed to me. Mr. Randolph has been very diligent; he now undertakes the duty and cost of transporting Gove. I cannot repay him from colonial funds, as they are brought so low by the expense of Gove's rising. I beg, therefore, that his expenses may be allowed.

Probably they were, or we should have heard something more from Randolph, who was not backward in urging his claims and aspersing Cranfield. He delayed sailing from Boston till the end of March; for there is a warrant by Cranfield to Henry Joules of the *Richard*, bidding him "to transport Edward Gove, lately sentenced to death for high treason, to England, there to be executed, according to the king's order." This is dated March 29, 1683, when Cranfield was in Boston; from which town he wrote to his crony, Blathwayt, in London, June 19, that he was watching the Bay Puritans, adding:

Gove's estate was so inconsiderable, and so conveyed away, that all I could make of it was 200 pounds in money of this country, to be paid at several times, — the first payment not being till January next; and then I will return you a third part of it; which shall be your portion for the future of all advantages that shall arise to me here, or wherever I am employed in his majesty's service. (January 16, 1684). I find that Mr. Cooke hath an expectation from the confederates of Gove. I do assure you, and so doth Mr. Randolph know, that they are not worth anything; else he might be sure I would have taken care that he should have been considered. But out of Gove's estate, which was appraised at £200, to be paid in two years, he may depend upon 20 pieces. The first payment is to be the beginning of March, and the other 100 pounds that time 12 months, — but he shall receive his out of the first payment.

Randolph with his convict landed at Falmouth late in May, and delivered him at the Tower, June 6, 1683. The next day the lieutenant of the Tower inquired of Sir Leoline Jenkins if the king will pay the board of Gove, — as he did, at £3 a week. He added: "I keep two warders with him, one to lie in his chamber, and the other never to be out of his sight. Our warder houses are so full of our officers that we have no place for prisoners."

Four days after this double guard of a harmless Puritan, Gove himself wrote to Randolph, with whom he had made a friendly acquaintance on the voyage:

I make bold to trouble you with my affairs, who are a person that knows my circumstances very well. You know my case, and what to urge in my behalf; had I known the laws of the land to be contrary to what was done, I would never have done it. You may well think I was ignorant of any law to the contrary, since for 14 or 15 years past the same thing hath been done every year, and no notice at all taken of it.

What this meant, I cannot say: his demonstration alarmed Cranfield and Barefoote, then captain of the fort on Great Island, where he held Gove in irons. Gove went on to say to Randolph:

I have further to request of you (if it may not be inconvenient) that you will please to assist me in my necessity with some money; and, so far as my promise may signify in the case, do promise that, whatever you will be pleased to furnish me withal here, you shall take it out of my estate in New England. These things I desire you will be pleased to do for me, — whereby you do me great acts of charity, and always oblige me to remain, honored sir, to command, to my power.

What Randolph may have done besides advancing money to Gove, is not on record; but when Gove's case came before the privy council in August (the famous Earl of Halifax presiding) it was merely decreed to hold him in the Tower during King Charles's pleasure, who refused to execute him. Great wrath against Cranfield existed in New Hampshire. The incensed colonists raised a fund and sent Justice Weare to London to complain of his misdeeds; his friend, Randolph, turned against him. Writing from London, July 26, 1684, Randolph said: "Wyre hath lately put in articles against Mr. Cranfield, which render him here a very ill man, and in time will do his business." In March, 1685, writing to a bishop, he added:

Whoever goes over as governor, with expectation to make his fortune, will disserve his majesty, disappoint himself, and utterly ruin that country. . . . Very unlucky for the king's service was the sending over Cranfield to New Hampshire, who by his arbitrary proceedings has so harassed that poor people. . . . He has

quite ruined that place; and his open immorality, as well in Boston, where he hired a house and told them he had assurance of that government, upon vacating their charter, was one great reason why the Bostoners did not submit upon my last going over.

In April, 1685, Halifax, president of the Privy Council, wrote a letter to Cranfield censuring him and intimating his recall, at the same time saying to persons who reported him to the French envoy, Barillon, "that the laws in force in England ought to be established in every country inhabited by Englishmen; that an absolute government is neither so happy nor so safe as that which is tempered by laws; and that he could not make his mind easy to live in a land where the king had power to take money out of his pocket whenever his Majesty saw fit." Meantime Charles II had died (February, 1685), and James II had succeeded, with Halifax still at the head of the Council. September 14, 1685, this pardon of Gove issued from the Council:

James R. Whereas, Edward Gove was near three years since apprehended, tried and condemned for High Treason in our Colony of New England in America, and in June 1683 was committed prisoner to the Tower of London. We have thought fit hereby to signify to you Our Will and Pleasure that you cause him, the said Edward Gove, to be inserted in the next General Pardon that shall come out for the poor Convicts at Newgate, without any conditions of transportation; he giving such security for his good behavior as you shall think requisite. And for so doing this shall be your Warrant.

Given at our Court at Windsor the 14 day of September 1685, in the first year of our Reign. By his Majesty's command.

SUNDERLAND.

To our Trusty and Wellbeloved Recorder of London, and all others whom it may concern.

Gove, for some reason, remained in captivity till March or April, 1686, and was thus in the Tower when the Duke of Monmouth was brought in, a prisoner under sentence of death. He had previously, in the year 1683, seen the arrest and execution of Sidney and Russell, preceded by the murder of Essex in his room; and had heard, in so much of the gossip of London as reached his seclusion, of the avowal of Charles that he was a Papist, like his brother, and all the rumors of that evil time.

At times, in Gove's life of seventy years, there were periods of insanity, in one of which his property, which was considerable for those days, was put under guardians; and this may explain eccentricities in his conduct. He is said to have come home with a fancy that his food in the Tower had been poisoned, — a common delusion of the insane. But the confidence of his countrymen was not withdrawn from him; and in 1690 he joined with twenty others in framing a temporary constitution for his small province, during the interval between the two charters of Massachusetts, and the modifications of New Hampshire's form of government. King James had directed his property to be restored to him; and it is to be hoped that Cranfield had to disgorge his hundred pounds. But details are lacking. Cranfield was very angry with Randolph, when he got back to Bristol from Barbadoes in January, 1686. He called on Sir Robert Southwell, a friend of Blathwayt and Randolph, who thus reports him, in a letter from King's Weston:

Mr. Cranfield came in [January 5] telling me that upon sight of my livery, he could not forbear to find me out. In a very short time he fell to rail bitterly against Mr. Randolph; that he had sent home affidavits against him and other malefactors, but all his complaints were suppress; that he had contended with two open rebellions in his government, and thought it a blessing to be well rid of it, and the more since Mr. Blathwayt had been unkind to him. I asked him whose fault was it if he had caught a Tartar, and found some disappointments in the thing he so much desired? He told me he never had desired that government; that it was only your importunity that made him go. . . . He raised his own merit above all, saying he was a gentleman wellborn, and that his grandfather was the first that discovered the gunpowder treason; but Randolph was a scoundrel.

I suppose Cranfield to have been the great-grandson of the Baron Morley and Monteagle, who disclosed the powder plot in November, 1605, by which disclosure several of his friends lost their lives. Cranfield himself was astute in plots, but not capable of carrying them to success; in that point Randolph was his superior, and in some ways a better man.

The immediate object of Cranfield in having Gove's trifling demonstration treated as a treasonable insurrection was, that

he might personally profit by the confiscation of his property, which he fancied larger than it was. In the two volumes added two years since by the Prince Society to their memoirs of Randolph, from secret material among the papers of his friend and patron, William Blathwayt (generally called Blaithwait), more light is thrown on the motives of Cranfield than has come to my notice elsewhere. The charges made by his victims and opponents might be exaggerated, but in these confidential letters and interviews he disclosed himself to clear view. It was Blathwayt who procured him the office of Governor of the small royal Province in 1682, and with a distinct understanding that he was to make money, and share his gains with his patron and one or two more in England. It is also likely that he had secret instructions from Charles II to procure the annexation of Maine to New Hampshire, in order to form a County Palatine for his bastard son, Monmouth, which was once a favorite scheme of Charles. At any rate, Cranfield, soon after landing, in October, 1682, took up zealously this scheme, as likely to be profitable to himself and to Blathwayt. In one of his first letters from Portsmouth (December 1, 1682) he wrote:

If the province of Maine be added to this Government, please to prevent any patent for Secretary and Provost marshal, or for lands, or other things at his Majesty's disposal here, and give me notice of it. And let the appointing of a man or men for that service be left with me, and I will take care to put in such whereby the interests of yourself and my friend Gwinn may be served with my own. And the consideration of my serving the King here without salary may help the matter to come off the easier; whether it be secured to us by way of patent or otherwise, as you think fit.

Cranfield's schemes, like those of Robert Mason about the income from his New Hampshire leases, were golden dreams, of which here is a sample, in his letter to Blathwayt of February 20, 1683:

I give you my faith that you and Mr. Randolph shall come into an equal part of everything that tends to profit. First, as to the settlement of the Province of Maine,—we shall at least make £3,000. The Narragansett country lies between several claimers; both parties have money, and three or four thousand pounds will not be felt in the disposal of those lands. As for Boston, there are

some persons to be exempt out of the pardon, who will buy their pardon at 8 or 10 thousand pounds' price; besides, there are several grants of town lands, which will in a year or two come to be removed, to pay above £2,000 upon their new leases. The excise and Customs yearly paid come to about £1,500, — and there is above £5,000 money which was collected for the Evangelizing of Indians, now out at use in the country; which, by commission may be inspected into and regulated: with other advantages which will arise in the settlement.

After these great expectations, none of which were realized, it was a wet blanket to find that all Cranfield could get out of the confiscation of Gove's property was a poor £200, to be divided between himself, Blathwayt and a third pal named Cooke. In this whole affair it is plain that Gove, without intending it in the least, became an instrument; for his imprisonment, and the exactions of Mason and Cranfield (to whom Mason's daughter had been promised, with a dowry of £3,000), led to the recall of the Governor and the defeat of all Mason's claims, though these were kept up for a century longer. Randolph had his own expectations of profit from land-grants, fees and pardons, — the whole plot for which Cranfield in this secret intrigue disclosed; but, like his false friend, he was thwarted, and, of all men in the world, by Colonel Dudley, during the years 1686-89. When, after long delay, the Massachusetts Colony Charter was abrogated, and the new Stuart government set up in Boston, with Dudley as President of the Council, in 1686, Randolph became Secretary of the Council, and John Usher its Treasurer.¹ Their prosperity was but brief; for in April, 1689, Randolph was seized, along with Andros, Dudley and other supporters of James II in Boston, and imprisoned at Castle Island, for weeks, waiting to be sent over to William and Mary in London for trial upon charges made by Bradstreet, Hutchinson and the other Massachusetts men who had rejected Andros and Dudley and set up the old Charter government.

¹ This connection with Usher, who escaped with little suffering for his share with Dudley and Andros, and soon became lieutenant-governor of New Hampshire, gave point to what Randolph wrote to his friend Blathwayt in March, 1693, during a war with France in which New Hampshire suffered much from Indians: "After all I hear, my neighbor John's bed of honor, Pascataqua, is about 3 or 4 parcels of miserable wretches in poor garrison houses instead of towns."

By 1692 Randolph had cleared himself in England, as Andros and Dudley had done, from the accusations against him, and was back in the Colonies as a revenue officer, vigilantly on the watch for irregular trade to interfere with the English colonial monopoly, which had suffered greatly during the disturbed years 1689-92. Dudley also was back, but not yet in Boston. He had an official appointment covering New York and New Jersey, and had fallen out of Randolph's good graces. In 1685 nobody was more fit than Dudley, in Randolph's opinion, to have high place in New England, and he obtained it largely through Randolph, I suppose. But seven years later the wind blew from another quarter. Writing to Blathwayt from New York, August 16, 1692, Randolph said:

I question not but you have been plentifully addressed by Mr. Dudley from the first, shewing how forward he has been, and what pains he has taken to have your salary as auditor allowed and duly paid; how diligent to seek the peace and promote the good of this people, etc. Such topics he can write largely upon, but every word is false. . . . No accounts are audited. Pinhorne only withstands it, in avowed prejudice to you, — being Dudley's creature, and of the New England faction. Dudley, Johnson and Pinhorne have no estates in the Province [New York,] and it's a great heartburning to most of the inhabitants that mere strangers should be appointed to dispose of their lives and estates. . . . I am unwilling to detain you to make unnecessary reflections upon Joseph the Jew (for so now Mr. Dudley is called); yet I may not without injustice be wholly silent. I omit the bribery and injustice, the perjury and flattery commonly charged upon him at the trial of those persons who ruined a thriving country and an industrious people. . . . After this, and a long chain of his frauds and briberies, known and felt by too too many in this Province, must their Majesties' interests, the peace and preservation of all that is good in the Province be sacrificed to the boundless ambition of this Ignis Fatuus? I have no prejudice against Mr. Dudley; what I have wrote is experimentally true. . . . Had Dudley been in the Province, and succeeded Govr. Slaughter, he would, Judas-like, have sold his King, his country and the liberty of the people to the next frank bidder.

Exactly when and how this animosity to Dudley began, does not yet appear. Randolph had usually been a straightforward person, if compared with several on both sides of that great controversy over the colonial charters, which began in

Charles First's time, and was still unsettled at the outbreak of our Revolution in 1775. Randolph, like his wife's kindred, the Masons, was steadily opposed to proprietary charters, although he supported Robert Mason for a time in his claim to dispose of New Hampshire in block, under a system of quitrents. He had a sharp controversy with William Penn over his proprietary government in Pennsylvania and Delaware, and epithets were interchanged between them in King William's reign, — that monarch being also in favor of making the Colonies Crown Provinces, as New Hampshire and Virginia were. Randolph complained that Scotch merchants and ship-masters had too much their own way in Maryland and Pennsylvania, and that Penn had made a Scotchman Secretary of his Province. He implied that the other officials in Pennsylvania were poor men and therefore open to bribes from the illegal traders, and those whom Randolph terms "pirates," — who seem to have combined smuggling with actual piracy, under the guise of privateering. William Penn replied angrily to these complaints, for which there was certainly some foundation, — writing to the House of Lords Committee, March 1, 1697:

That the Governor favors pirates is both foul and false.

That Patrick Robinson is a Scotchman and Secretary is true: but that he is by the laws of England capable of being so, is as true. But he was not of my making, and if the King thinks it improper, he shall be immediately removed. . . . For what concerns Randolph's reflections upon our judges, they are honest and substantial men, — one of them being worth 50 times the estate of the reflector. . . . That Col. Markham desired the Collector's place can be no fault to the King, that I know of, nor to himself if profitable. But if his poverty be an objection, he shall be changed if the King pleases: but for that reason E. Randolph ought not to be Surveyor of the Customs; who, I have reason to believe, is not worth 500 pounds, if one, in the whole world.

It is true that Randolph, though almost all his life in office, was never a rich man, nor in fact independent. He endured hardship in the discharge of what he thought his duty; was imprisoned nine months at Boston in 1689-90, for a shorter time in Maryland, and for nine months at Bermuda in 1699. He was threatened with a "drubbing" by Sir William Phipps in the summer of 1692; at which time he renewed his visits to

Pascataqua, where, ten years before, he had co-operated with Cranfield the Governor, and Mason, his kinsman, in oppressing the planters, in order to force them to pay rent to Mason and take titles from him to their own lands. He, had however, been friendly with Gove, and aided him to recover his estate. The Duke of York, when James II, pardoned Gove in 1685, and ordered his confiscated estate to be restored to him, — a small meadow in which I now own by inheritance. Gove made friends with Randolph, and they spoke kindly of each other. When he came to understand the situation in Virginia, where his uncle John Randolph had been one of the large proprietors, Edward Randolph saw the mischief that large estates were doing in a new colony, — the same that *latifundia* were doing for Italy in the days of Tiberius Gracchus. Writing to the Board of Trade, in the summer of 1696, from Virginia, he said:

Whence comes it that Virginia, the first English settlement upon the continent of America, begun above 80 years ago, is not better inhabited? considering what vast numbers of servants and others have yearly been transported thither. Some have imputed it to the unhealthiness of the place. But the chief or only reason is, the inhabitants and planters have been discouraged and hindered from planting tobacco, and servants are not so willing to go there as formerly, — *because* the members of the Council, and others who make an interest in the government, have from time to time procured grants of very large tracts of land. So that there has not for many years been any waste land to be taken up by those who bring with them servants, or by servants who have served their time faithfully with their masters; but it is taken up and ingrossed beforehand; whereby they are forced to hire and pay a yearly rent for some of those lands, or go to the utmost bounds of the Colony, for land exposed to danger from Indians. . . . Such grants being procured upon easy terms, and very often upon false certificates; many hold 20,000 or 30,000 acres apiece, without paying one penny quit-rent for it. . . . Whereby some 100,000 acres are taken up, but not planted; which drives away the inhabitants, and servants brought up only to planting, to seek their fortunes in Carolina and other places, which depopulates the country.

Randolph therefore recommended several things; that his cousin William Randolph, then Attorney General in Virginia, be removed for incompetence, and that Edward Chilton serve

as Attorney General for Virginia, Maryland, North Carolina, Pennsylvania and West Jersey; that no grants of more than 500 acres be made, and all grants be revoked where the conditions had not been complied with; and thus 100,000 acres be in the hands of the Crown, under a competent Attorney General, fit for granting in small estates to actual settlers. He then added:

The granting away such lands in parcels not exceeding 500 acres to one man, will mightily increase the number of planters; who, through necessity, will seat themselves in a far nearer neighborhood than formerly, and thereby be better enabled to secure their country, their families and plantations, from spoil and rapine. And many thousand hogsheads of tobacco will be yearly made, more than were formerly in that colony; the trade, the shipping and the navigation of England will be encouraged, and the revenue of His Majesty's customs upon tobacco thereby yearly increased.

Doubtless this would have been the result; but the policy was not adopted, and Virginia continued to increase in black slaves more than in white freemen. In New England the opposite result occurred, for the Churchmen on the Pascataqua failed in their plans for great estates and glebe lands, and clergymen appointed by squires, in the English fashion. Randolph lived to see that failure, and to learn that it was a bad policy, though favored by the Stuart kings and the archbishops of the English Church "as by Parliament established." With all his malice and vituperation he had good common sense, and apparently, like his New Hampshire partisan Barefoote, much kindness of heart where partisan politics were not involved.

VII. *Nicholas Shapleigh.* This last on my list of Churchmen was almost the only one who left acknowledged descendants in the Pascataqua region, except Robert Mason. He was, like several of them, from English Devonshire, and became a considerable owner of lands in Maine and New Hampshire. Like Archdale, he became a Quaker early, but whether for spiritual or material or political reasons, is not clear. He was connected by affinity with the Hiltons of Exeter, who had so many and so various dealings with Walter Barefoote, but does not seem to have been as conspicuous as that family in the affairs of early New Hampshire. Shapleigh joined with his political friends in opposing the Massachusetts domination in Maine, but

without much success, except in escaping the severe decrees of the Puritans for moral or political transgressions. Outwardly respectable, as Barefoote and Greenland were not, he seems to have kept within the limits of accepted law, and when affairs settled down his kindred became peaceable and law-abiding citizens except for such statutes as affected the Quakers.

Upon the whole, these Churchmen on both sides of the Pascataqua did not succeed in establishing a class of landed gentry in Maine and New Hampshire, as their fellow worshippers and Stuart loyalists did in Virginia; although large estates, owned for the portioning of children or the increase of wealth by grants and sales, were long familiar to the more prosperous planters of New England, in each of the Colonies that constitute the present six States. This difference between the practical land-tenures of the Northern and most of the Southern States of the Union, as it existed in 1820, accounts in part (but only in part) for the fanaticism with which the oligarchy of slaveholders adhered to their vicious and outgrown "institution," in defence and propagation of which they fought the Mexican War and insanely brought on the Disunion War. It is only in a community of large landed estates that negro slavery has been able profitably to exist in modern times; and one of the most beneficent results of the emancipation of slavery (against which General Lee fought strenuously for three years, until he saw that slavery was doomed), has been the breaking up of the great plantations at the South, and the ownership of land for cultivation in small farms.

Mr. BROOKS ADAMS presented a paper on

THE SEIZURE OF THE LAIRD RAMS.

Part I.

Rather more than two years ago my brother, Charles Francis Adams, erected a monument to my father in the church at Quincy, and ever since I have meditated upon how I could, in commemoration of that event, best explain why my father impressed himself upon me as the most remarkable man I have ever known. It was not, I apprehend, because he was

particularly versatile or brilliant; on the contrary, he was rather silent and restricted in the sphere of his interests; but it was, I think, because he possessed in a fuller degree than any man I ever met that poise and unity of mind peculiar to the eighteenth century, qualities which reached perfection in General Washington.

As my father was born in 1807 and I in 1848, I have some consecutive remembrance of him only as he neared fifty, and just before he began his public life. At this point of my childhood I recall him best in his study in Boston, where I listened to his talk with Charles Sumner and John G. Palfrey about slavery; or, what I liked much better, teased him into reading *Æsop's Fables* to me out of a charming copy bound in blue, filled with engravings, in which I delighted. In Quincy he seemed to me to correct proof sheets endlessly. They were the proofs of the *Works of John Adams* which he was editing, and while he corrected I would sit at his table and pretend to study my lessons. I was a trying child, for I was restless and inattentive, and I have often wondered how a man as quick-tempered as my father could have been so patient with me. One night, in particular, I can see myself sitting at his table, where I was supposed to be busy with my book, but where instead I was wondering whether there was really red ink in a large glass inkstand in front of me. Stretching across a heap of proof sheets, I possessed myself of the inkstand, and then, putting my fingers across the mouth, I deliberately turned it upside down, and immediately a deluge of red ink ran through my fingers, flowed down the proof sheets, and began to trickle into the chair. Though my father, at a scream from my sister, who was sitting near me, seized the inkstand, I do not think he boxed my ears, or even scolded me much. He was rather grieved, apparently, to perceive how utterly he failed in training me to fix my attention on what I was doing. I really think one of the trials of his life was my inattention. He was always toiling with me and always failing, until he grew too busy to attend to me, when he handed me over to others who, I regret to say, succeeded no better than he. But in spite of my inattention he must have been fond of me, for he liked to have me with him, and he took me for long walks and told me stories of his boyhood; how he had travelled in a carriage alone with

his mother across Europe from St. Petersburg to Paris, in the winter of 1815, to join his father, who had been at Ghent; how he had seen Napoleon at a window in the Tuileries during the "hundred days"; and how after he came home he used to pass his winter vacations with his grandfather in his house at Quincy, when his chief occupation was to read French to John Adams and listen to his tales of the Revolution. Those winter vacations he always remembered for the cold, since being the youngest he sat at dinner farthest from the fire, and envied his grandfather, who had his back to it. In short, my father adored his children, was very domestic, never left home without his wife if he could help it, and disliked clubs. On that subject he was often eloquent to me, and there is a characteristic entry in his diary touching two of the most exclusive and desirable clubs in London. One day in 1862, after he had been more than a year in London as minister, he happened to attend some function at the Athenæum to which he had been specially invited, and on returning he made this note: "Although I was admitted a member on my first arrival here, as well as to the Travellers, I am so little of a club man that I have never set my foot in either before."

Ten years later we travelled alone together for some months in Europe, when I admit that I found my position difficult; but as soon as my mother joined us he became contented and sunny. He could not get along without his wife, and he never tired of impressing on me the importance of a man's marriage, because, said he, "I should never have amounted to anything without your mother. But for her I should have been a recluse."

In 1858 the Quincy district sent my father to Congress, and when I was eleven he took me with him to Washington. I do not know that what I saw there astonished me as a child, for it seemed to me as part of the order of the universe that others should defer to him, just as we all did at home; but as I look back the position he won in a single session seems marvellous. He almost immediately gained commanding influence, apparently without an effort, simply by force of character. Mr. Seward, especially, who was the prospective Republican candidate for the presidency, soon fell into confidential terms. Well do I remember Mr. Seward dropping in one wet winter afternoon for a chat. He sat down in an arm-chair, thoughtfully pulled

off his boots as he talked, and stretched out his feet, clad in blue knit stockings, to dry before the fire. My father and Mr. Seward had a somewhat similar cast of mind; they were cool tacticians, and they agreed in 1860-61 that the most important point to gain was time, so that the border States should not secede before Lincoln was inaugurated, and thus endanger Washington.¹ In support of this policy my father made a conciliatory speech, which Sumner never forgave,² and I have sometimes fancied that this breach between Sumner and my father had much to do with Sumner's course touching the arbitration of the Alabama Claims, which ended in permitting my father to win what I am now inclined to think was the most unqualified success of his life.

Meanwhile Mr. Lincoln had been elected President and had asked Seward to be his Secretary of State. Seward wished to have my father in the Treasury, but Mr. Lincoln had other views, and finally it was arranged between Seward and his chief that my father should be sent to England, in spite of Sumner's opinion that he was not fit for the post. And, indeed, there was something to be said for Sumner's doubts, for the mission was not only the most important on which any single American had probably ever been sent, but my father had never been in diplomacy, had never even had a thorough legal training, had never written a despatch, and had no experience in national public life beyond a single term in the House of Representatives. What I wonder at now is Seward's knowledge of character, and my father's self-reliance; for though he appreciated very imperfectly the full gravity of the situation in England, he yet knew enough to oppress any but a very rash or a very strong man, and my father was not rash. Many years afterward he said of himself, that his mission to England seemed to him "like a wild dream from which I awake with a feeling of safety."

For just a century before the Rebellion broke out, America had been rising toward both political and economic independence of Europe, and after 1850 it began to dawn on the European mind that if the democratic experiment in the West were to achieve its apparent destiny, privilege in Europe must end.

¹ *Proceedings*, XLIII, 660.

² *Pierce, Memoir and Letters of Charles Sumner*, IV. 9-13.

John Bright was constantly harping on this theme, and again and again passages like this occur in his speeches during our Civil War: "When I speak to gentlemen in private upon this matter, and hear their own candid opinion — I mean those who differ from me on this question — they generally end by saying that the Republic is too great and too powerful, and that it is better for us — not by 'us' meaning you [the laboring class], but the governing classes and the governing policy of England—that it should be broken up." Therefore, in 1861, the British landed gentry hesitated only in openly siding with the South, and dividing the Union, because they were not certain that the democratic movement at home might not have gone too far to make such a course safe. As a boy at school in England I saw these feelings in all their crudity. I always heard the North vilified or ridiculed, and John Bright denounced as an anarchist and a foe of order. For John Bright was the foe of privilege, which to my schoolmates meant order, and the representative in Parliament of the great levelling propaganda which terrified the aristocracy. The schism which split English society was almost as deep and fierce as that which rent American, and in March, 1863, just as the great struggle began over stopping the iron-clad rams building by the Lairds, John Bright and John Laird between them defined the issue with something akin to ferocity. On March 26 Bright addressed a frantically excited audience of trade-unionists in St. James's Hall, in London, and the next night Laird answered him amidst a cheering House of Commons. This was the Laird who had already built the *Alabama*; who had, on the day that Lord Russell issued the order to seize her, sailed down the Mersey on her with his daughter as on a party of pleasure in order to abet her escape; and who at that moment sat for Birkenhead and was notoriously building for the Confederacy two of the most powerful battle-ships in the world.

On March 26 Bright opened the vast meeting of working-men with these words:

Privilege thinks it has a great interest in the American contest, and every morning, with blatant voice, it comes into your streets and curses the American republic. Privilege has beheld an afflicting spectacle for many years past. It has beheld thirty millions of men, happy and prosperous, without emperor, — without king, —

without the surroundings of a court, without nobles, . . . without State bishops and State priests, "sole vendors of the lore which works salvation"—without great armies and great navies,—without great debt and without great taxes,—Privilege has shuddered at what might happen to old Europe if this grand experiment should succeed. . . . There may be men outside, there are men sitting amongst your legislators, who will build and equip corsair ships to prey upon the commerce of a friendly power,—who will disregard the laws and the honour of their country, . . . and who, for the sake of the glittering profit which sometimes waits on crime, are content to cover themselves with everlasting infamy. . . .

I speak not to these men . . . I speak to you, the working-men of London, the representatives, as you are here tonight, of the feelings and the interests of the millions who cannot hear my voice. I wish you to be true to yourselves. Dynasties may fall, aristocracies may perish, privilege will vanish into the dim past; but you, your children, and your children's children, will remain, and from you the English people will be continued to succeeding generations.

You wish the freedom of your country. You wish it for yourselves. You strive for it in many ways. Do not then give the hand of fellowship to the worst foes of freedom that the world has ever seen. . . . You will not do this. (Cries of Never!) I have faith in you.

To this, on March 27, Laird replied:

I will allude to a remark which was made elsewhere last night—a remark, I presume, applying to me, or to somebody else, which was utterly uncalled for. (Hear!) I have only to say that I would rather be handed down to posterity as the builder of a dozen *Alabamas* than as the man who applies himself deliberately to set class against class (loud cheers), and to cry up the institutions of another country, which, when they come to be tested, are of no value whatever, and which reduced liberty to an utter absurdity. (Cheers.)

Whatever I may have felt as a boy at school touching the hatred of the English upper class, I can now look back upon what occurred during the Civil War with complacency, for not only did we win, not only did I afterward see Chief Justice Cockburn actually flee from the council room at Geneva when the award of the Arbitration was declared, but the malevolence of the aristocracy gave my father his opportunity.

Well do I remember the May evening in 1861 when the family arrived in London, and how almost at once the venomous atmosphere of the place began to oppress even a boy like me;

but my father, as far as I could see, remained composed, though the first news he read in his morning paper was the acknowledgment of Confederate belligerency. Then he must have realized what was in store for him. He must have known the complexion of the British Cabinet; that it was intensely aristocratic, and supposed to be one of the ablest that had sat during the century. Lord Palmerston, the Prime Minister, belonged to the influential Temple family, and had held office almost continually since 1807, the year of the attack of the *Leopard* on the *Chesapeake* in Hampton Roads. He had been nurtured in the traditions of the press gang, and had matured in the era of the arrogance of Waterloo.

Next to Lord Palmerston ranked Lord John Russell, the Secretary of State for Foreign Affairs, and the minister with whom my father had personally to deal. Lord John was the third son of the sixth Duke of Bedford, one of the most opulent and powerful nobles of England or of the world. Lord John was born in 1792, and in 1813, when he was not yet twenty-one, and only a few months after the *Constitution* captured the *Guerrière*, the Duke ordered Lord John's return to the House of Commons from the family borough of Tavistock, very much as he might have ordered for him a suit of clothes. It is true that Lord John afterward made his political fortune by supporting the Reform Bill, which made havoc with such convenient seats as Tavistock, but none the less he had the prejudices of his class as fully as Lord Palmerston, or as King William himself, who so cordially disliked him. Even his father remonstrated with him about his supercilious manners and the way in which he offended his followers in the House by treating them *de haut en bas*.

Mr. Gladstone was Chancellor of the Exchequer, and decidedly the most restless, as he was possibly the most interesting, member of the Government. Starting, in the first reformed Parliament, as an extreme Tory, Gladstone pretty early began to suspect that he could obtain what he wanted in life by a shorter path than conservatism, and in 1861 he was already nearing the parting of the ways. Perhaps the most flexible of all eminent English politicians of the nineteenth century except Disraeli, Gladstone was neither liked nor trusted by the class to which he by birth belonged, least of all by his chief,

Lord Palmerston. Indeed Lord Palmerston was far the more straightforward and the more reliable man of the two. Of all the public men who held office during the Civil War, Gladstone, though with radical proclivities, was the most inveterate and dangerous foe of the North. When the North prevailed, Gladstone, with amazing assurance, turned right about. He had an awkward record to explain, but inconsistency never troubled Mr. Gladstone. He calmly dismissed the subject by saying that when he spoke at Newcastle in 1862, advocating in substance an alliance between England and the South, he must have been demented. He was not demented at Newcastle, he was only then what he remained until death, — the most slippery of men.

Perhaps Gladstone was best described by William E. Forster. Forster was too frank to harmonize with Gladstone, and the time came when Gladstone dropped him from his Cabinet. Afterward when Gordon was besieged in Khartoum, Forster tried to make Gladstone relieve him, but Gladstone, finding it inconvenient to do so, pretended to believe that there was no danger. By this time every one who knew Gladstone recognized that he could convince himself of anything that served his purpose, and one night Mr. Forster, in the heat of debate, blurted out the truth. What he said made a great commotion, but it was never forgotten. "I believe every one but the Prime Minister is already convinced of that danger, . . . and I attribute his not being convinced to his wonderful power of persuasion. He can persuade most people of most things, and, above all, he can persuade himself of almost anything."

In May, 1861, Lord Campbell held the Great Seal, but he died in June. The Attorney-General, Sir Richard Bethell, succeeded him, under the title of Lord Westbury, and few people pretended either to like or trust Sir Richard. Four years afterward he achieved a distinction which no other chancellor had achieved since Lord Macclesfield in 1725. Parliament removed him from office for practices so questionable that they could not be ignored.

The rest of the Cabinet were less conspicuous, but they were, as a rule, men of good ability, and they reflected pretty fairly English Liberal opinion until it shaded into the radicalism of John Bright. With one or two exceptions, all of them, prob-

ably, would have liked to dismember the United States. They differed chiefly as to the risk they were willing to run. Consequently men like Palmerston, Gladstone, Russell and Bethell were much occupied in devising means to succor the South safely; only Palmerston and Russell preferred to work above-board, if they could, while Bethell was a natural secret conspirator. All of them were politicians of long experience, of proved ability, and, except Bethell, not much more unscrupulous than successful political managers are apt to be.

Diplomats hated Palmerston, for he was the incarnation of arrogance. Nothing, for example, could exceed the brutality with which he had trampled on the helpless Greeks in the Don Pacifico affair. Still, this did not hurt him with Englishmen who understood him and liked him, and also liked his arrogance. He had a sure instinct for the drift of English opinion, especially among his own class. Lord John was not so popular, and was rather more than suspected of slackness in truth-telling, while Gladstone was notoriously shifty. Bethell's reputation was not good. All the ministers were, of course, at home, surrounded by lawyers and secretaries, and enjoying every facility for obtaining advice and information. The British Foreign Office, in particular, boasted of its admirable staff and of its perfect equipment.

Mr. Adams confronted this whole phalanx alone, in a strange and hostile land, and at the head of a legation preposterously ill-prepared for an emergency. His one advantage was that, being himself in his prime, he represented a people who were still elastic and nerved to the point of exaltation by the imminence of their danger. The English aristocracy were, on the other hand, moribund, and were largely led by men in the decline of life. In 1861 Lord Palmerston was seventy-seven years old, plainly failing in vigor, so much so that he avoided when he could severe parliamentary strains. Thus, though the British aristocracy were outwardly as haughty and supercilious as ever, they were at heart growing timorous, and were approaching a period when they would recoil before a resolute adversary even when the odds strongly favored them. Lord Morley had cause afterward to notice this phenomenon, and has commented upon it, in his *Life of Gladstone*, when speaking of the Reform Bill of 1867: "The same timidity that

made the ruling classes dread reform, had the compensation that very little in the way of popular demonstration was quite enough to frighten them into accepting it;”¹ and what was true of England in 1867 was beginning to be true of England under Palmerston.

With such antagonists the position of an American minister was extremely difficult. A moment’s irresolution or apparent timidity would have brought him into contempt, and irritability or bravado would have made him ridiculous; while truckling would have ruined him both abroad and at home. To succeed he needed to have at once good manners, absolute firmness, and perfect knowledge of the law and the history touching the controversies he had to handle, for he had no one to help him. Beside all this he must have a profound and intuitive insight into English character. He stood between an exasperated people in America and an insolent, contemptuous, unscrupulous and vindictive aristocracy in England.

As the summer of 1861 wore on amidst Federal disasters, the rancor which had begun to seethe in England against the North with the attack on Sumter, changed into a feeling akin to contempt; so that when in November Captain Wilkes took Mason and Slidell from the British ship *Trent* in the West Indies, an explosion of mixed anger and disdain followed in England which in the twentieth century seems incredible. By the American jurist or statesman the act of Wilkes can only be considered to have been exceeded in its impropriety by its stupidity, for Mason and Slidell, as prisoners, were of no value to the Government at Washington; while, ever since the time of General Washington, Americans had been protesting against, and sometimes fighting to avenge, just such outrages on neutrals as he committed. And yet Lord John Russell, the liberal, without giving President Lincoln time to disavow the act of his officer, wrote a despatch so insulting in tone that it revolted the Prince Consort, who insisted on redrafting it. Even as it stood when sent, this note demanded peremptorily an apology and the surrender of the prisoners within seven days. There can be little doubt touching the intent of the men who acted thus. When the news of the *Trent* reached London, Lord Palmerston and Lord John Russell fully intended to provoke

¹ *Life of Gladstone*, II. 227.

war, and this was the construction put upon it by John Bright and by most friends of the North. To keep the excitement hot the newspapers, which were organs of the Government, were rampant in invective, troops were hurried to Canada, the fleet on the American coast was ordered to prepare for action, and Mr. Adams' notification to the Cabinet, that Wilkes had acted without instructions, was suppressed.

However rashly an American captain may have behaved, or however foolishly the American people may have been expected by an Englishman to act when under strong excitement, it was poor policy for a British Minister of Foreign Affairs, who wished to pick a quarrel with the United States, to throw away every conventional rag of decency as did Lord Russell, when the news of the *Trent* reached London; for by so doing he finally raised a formidable resistance at home, and he also brought out some of the strongest qualities of his antagonist, the American Minister.

Law is only a formula of words which makes intelligible to mankind a movement of energy, and as the energy varies in power or direction, so does the law vary. The difficulty with which statesmen and judges always contend is that they have to guess, at any given moment, whether the law on which they rely is still vital, or whether it is dead and will give way beneath them.

When Lord Palmerston and Lord Russell were young, the only law which England knew upon the ocean was her own will. If she wanted to do a thing, she did it, and her judges would declare the act, whatever it might be, to be lawful. If in 1793 England wished to starve France, by severing her from her colonies, the Government ordered the navy to capture all neutral ships loaded with French colonial produce bound to France and bring them home, where the judges condemned them under the "Rule of the War of 1756," as they called it. It was a phrase meaning that England chose to fight that way. If the British fleet happened to be short of seamen, the officers used the press on American ships as freely as they used it in their own ports. If an American captain resisted, they fired into him, as the *Leopard* fired into the *Chesapeake* during the very year in which Lord Palmerston first became a minister of the Crown. No American lawyer who had ever thumbed a Blackstone but knew

that such outrages as that of Wilkes could be justified by plenty of British precedents, and that the worst of these precedents had been approved by American lawyers as eminent as Chief Justice Parsons of Massachusetts. The English lawyers knew these precedents quite as well as the American, and were inclined when Lord Palmerston first consulted them to hesitate. That was not the way, however, in which ministers of the Waterloo generation liked to deal with lawyers. Lord Palmerston ordered a satisfactory opinion, much as he might have ordered a pair of boots, and he got it in one of the most shameless opinions that even English Crown Counsel had ever given on maritime law. It would have been well enough, they said, if Wilkes, when he took the *Trent*, had sent her into port for condemnation, but he committed a crime against England when he removed the men and let the ship go.

Such considerations as these left Mr. Adams quite unmoved. He expected as much. Had not his grandfather tried the case of Michael Corbet for killing Lieutenant Panton while resisting a press gang on board the brig *Pitt Packet*, in old colonial days?¹ Had not his father, when on his way to St. Petersburg, in 1809, seen an English officer board the ship which carried him and his family, muster the hands on deck, and threaten to carry away a young sailor whom he knew to be an American? Could he not remember the negotiation of the treaty of Ghent, when England declined to give up any of her pretensions? To him the act of Wilkes, although quite indefensible, seemed to be not altogether unfortunate if it were but used wisely by the United States to force from England concessions on these vital points where she had always been unyielding. So when he heard the news suddenly, one day when visiting in the country, he remained perfectly composed, and waited for the result. His attitude had the greatest effect in steadying the friends of the North in England, and enabling them to concentrate an opposition to extreme measures which in the end prevailed.

One day when he and my mother were visiting Monckton Milnes at Fryston in Yorkshire, as they, with the other guests, were starting on some country expedition, he received a telegram with the news. Milnes was one of the few aristocrats who sympathized with the North, and he had invited William

¹ See *Proceedings*, XLIV. 422.

E. Forster, who, with Bright and Cobden, supported the United States in Parliament, to meet the Minister. On that occasion Milnes and Forster saw how my father bore a severe shock, and thenceforward their confidence never faltered. Had he wavered their position would have been untenable; how far afterward they and their friends were prepared to venture is best proved by their actions. In the midst of the turmoil, on December 5, when the *Times* and the *Post*, the organs of the Government, were lashing the public to frenzy, a great dinner was given to Bright at Rochdale, and there not only was a letter read from Cobden recalling the precedents of the Napoleonic wars and insisting on forbearance, but Bright made one of his boldest speeches challenging the sincerity of the ministry and protesting against permitting "your newspapers or your public speakers . . . [to] bring you into that frame of mind under which your government, if it desires war, may be driven to engage in it." This was the policy which Lord Palmerston and Lord Russell were pursuing, but it was one in which they could not afford to be exposed.

Mr. Adams constantly referred in his diary to remarks made by Bright and others touching Lord Palmerston's loss of vigor, and I am inclined to think that, after the first explosion of passion had spent itself, Palmerston concluded that it would be better for him not to push the *Trent* episode to an extremity, since he might accomplish the result he desired more easily. At this point in the American conflict Englishmen had not learned to judge accurately the relative strength of the combatants. They underestimated the North. They supposed that the only serious menace to the South lay in the blockade, and they imagined that the blockade might be as easily raised by a Southern fleet built in England and paid for by the South in cash, as by an English fleet which they would have to support themselves. There were in England abundance of men, like the Lairds, eager for this job, and English ministers did not as yet realize the difficulties into which they must fall while countenancing such frauds on the neutrality laws. When Wilkes boarded the *Trent* in November, 1861, the construction of a Southern navy was advancing fast in English dockyards, and although Mr. Adams did not collect evidence against the *Florida* specific enough to present until February, 1862, she

was then ready for sea. She lay, it is true, a month longer in port, waiting for her officers; but as all the Liverpool officials were avowedly Southern sympathizers she ran no risk, and sailed without hindrance. Lord Russell treated Mr. Adams' complaints with something not very unlike contempt.¹

As a scheme of war in disguise, the plan was good, but it soon proved to be impossible to execute without scandal, because, as Mr. Adams pointed out, the duty of nations in amity was "not to suffer their good faith to be violated . . . merely from the insufficiency of their prohibitory policy." To build a Confederate navy in Great Britain presented to the Government an alternative; they might either neglect to put their neutrality laws in force, or they might have them construed away by the courts; but in either case they must perpetrate on the United States a fraud too flagrant to be safe with such an American minister in London as they began to suspect Mr. Adams to be. Hence I infer that Lord Palmerston decided to get rid of him. Not that Palmerston necessarily reached this conclusion consciously, for Palmerston, I apprehend, very often acted by instinct like an animal; but none the less I have no doubt that he purposed driving the American Minister out of England, and that in the spring of 1862 he was only looking for a pretext to pick a quarrel. Those who were best informed and who, on the spot, watched events most closely, thought so too. On January 25, 1865, Mr. Adams made this entry in his Diary: "Mr. Forster recalled the fact that two or three times during my stay, there had been efforts made to fix a quarrel upon me, which he intimated had been avoided mainly by my care. I applied his remark by recalling the incident of Lord Palmerston, as a most amusing one. On the whole Mr. Forster has been our firmest and most judicious friend. We owe to his tact and talent even more than we do to the more showy interference of Messrs. Cobden and Bright."

On June 17, 1862, Mr. Adams came home late in the afternoon and found on his table the following letter from Lord Palmerston, marked "Confidential," which is probably the most extraordinary document ever written even by him. It was on the subject of General Butler's proclamation touching the women of New Orleans.

¹ *Earl Russell to Mr. Adams, March 27, 1862.*

Confidential.

BROCKET, 11 June, 1862.

MY DEAR SIR,—I cannot refrain from taking the liberty of saying to you that it is difficult if not impossible to express adequately the disgust which must be excited in the mind of every honorable man by the general order of General Butler given in the inclosed extract from yesterday's *Times*. Even when a town is taken by assault it is the practice of the Commander of the conquering army to protect to his utmost the inhabitants and especially the female part of them, and I will venture to say that no example can be found in the history of civilized nations till the publication of this order, of a general guilty in cold blood of so infamous an act as deliberately to hand over the female inhabitants of a conquered city to the unbridled license of an unrestrained soldiery.

If the Federal Government chuses to be served by men capable of such revolting outrages, they must submit to abide by the deserved opinion which mankind will form of their conduct. My dear Sir, Yours faithfully,

PALMERSTON.

C. F. Adams Esqr.

(Address: Private. His Excelcy Chas. F. Adams Esqr.

Palmerston.)

The longer Mr. Adams considered this letter, the more he suspected that it covered some unfriendly purpose, such as a joint intervention with France, of which rumors were abroad; but at all events Palmerston meant mischief, and the only way to escape him was to silence him. The next day he explained to Mr. Seward what he proposed to do. "It strikes me that he has by his precipitation already put himself in the wrong, and I hope to be able to keep him there;" but, he added, "the responsibility, thus unexpectedly thrown upon me, is felt to be of the most serious character." In after years he was rather fond of talking with me of this episode, and I received the impression that secretly he felt more satisfaction at his success than at almost any incident of his public life, for he had no liking for Palmerston. But whether this be so or not, he extricated himself from his predicament with wonderful adroitness. On June 13 he answered, telling Lord Palmerston plainly that he doubted whether he ought to receive such a letter, but before deciding he must know whether Lord Palmerston wrote as Prime Minister, or as a private gentleman expressing an individual opinion. Then he went to

Earl Russell and asked him what his colleague meant. Russell did not know. Meanwhile Lord Palmerston appears to have been at a loss. He waited until the 15th, and then wrote a few platitudes, without answering the question. Mr. Adams rejoined that he was "quite certain" that his government did not send him to London "to entertain any discussions of this kind," and that he could not submit "under the seal of privacy" to "any indignity which it might be the disposition of the servants of any" foreign "sovereign, however exalted," to offer. Therefore he wished to ask again whether Lord Palmerston's first note was official, or simply "a private communication of sentiment between gentlemen." Thus driven to bay, Palmerston, on the 19th, admitted, in a long letter of justification, that he had spoken as Prime Minister. Then my father closed the correspondence in these words: "The difficulties in the way of this anomalous form of proceeding seem to me to be so grave . . . as to make it my painful duty to say to your Lordship that I must hereafter, so long as I remain here in a public capacity, decline to entertain any similar correspondence."¹

If in Europe there was one public man more hated and feared by diplomats than another, it was Viscount Palmerston. When old Baron Brunnow, the Russian Ambassador in London, talked about Palmerston, he grew warm. It chanced that on the day after Palmerston's assault on Mr. Adams, which was, of course, still a secret, Brunnow met Mr. Adams in the ante-chamber of the Foreign Office and told him of his own troubles before the Crimean War. How Palmerston never spoke the truth, which, perhaps, was admissible; but how he would set traps for the unwary, in order to increase his popularity in the House of Commons by immolating his victims. How life became one long martyrdom, and how retort was futile, because Palmerston had the "hide of a rhinoceros." Mr. Adams, at least, had warning of his danger.

For once in his life Lord Palmerston felt that his hide had been pierced. He had no longer the nerve to face John Bright in debate on such an issue, so he dropped the controversy, but characteristically he bore no malice. The next year my father met him in public and offered his hand. Lord Palmerston took

¹ The letters are printed in Adams, *Charles Francis Adams*, 248-260.

it, and shortly afterward Lady Palmerston asked my mother to come again to her receptions. The invitation was accepted. There was no scandal, and Mr. Adams remained in London to watch the building of the Confederate navy.

His last letter to Lord Palmerston was dated June 20, 1862; his first to Earl Russell touching the *Alabama* was written on June 23. It was the experience of the *Florida* over again. Mr. Dudley, the American consul at Liverpool, sent the Minister most explicit affidavits which he enclosed to the Foreign Office. The Foreign Office sent them to the Law Officers of the Crown, and on their advice transmitted them to the Commissioners of Customs at Liverpool, who, in turn, referred "the matter to our solicitor, [who] has reported his opinion that, at present, there is not sufficient ground to warrant the detention of the vessel, or any interference on the part of this department, in which report we beg to express our concurrence." As it was notorious that all these Liverpool officials were in substantial collusion with the Confederates, the situation seemed desperate; but, as a last resource, Mr. Adams took the opinion of Mr. Robert Collier,¹ a member of Parliament and one of the most eminent counsel at the bar. Mr. Collier having considered the evidence advised the Legation that the Collector of Customs at Liverpool would incur "a heavy responsibility" if he did not seize the vessel, and that if the Foreign Enlistment Act were not enforced on that occasion it was but "a dead letter." He added that, if the ship escaped, the Federal Government might have "serious grounds of remonstrance." This advice of Mr. Collier did not move Mr. O'Dowd, the Assistant Solicitor of Customs at Liverpool; it, however, disturbed Lord Russell, who sent it marked "Urgent" to the Law Officers of the Crown. Then followed a delay of three days, which has never been well accounted for, but which was momentous, not only because it was afterward held to fix negligence upon Great Britain, but because what occurred in the interval showed, as Semmes boasted, that the Lairds at Liverpool were better informed of the secret thoughts and actions of the highest officials than were those officials informed of one another.² The biographer of

¹ Robert Porrett Collier, Lord Monkswell (1817-1886).

² On December 22, 1865, the following entry occurs in Mr. Adams' Diary: "Incidentally he [Mr. Moran, Secretary of Legation] told me that he had also

Lord John Russell has told how, "almost while Sir Roundell Palmer and Sir William Atherton were considering the papers," the *Alabama* left her dock,¹ so that the adverse decision must have been betrayed before it could have been drafted, and how the next morning, July 29, 1862, she steamed down the Mersey on a pretended trial trip, while the opinion was on its way to Downing Street. Still the situation was not irretrievable. The *Alabama* might be stopped in a colonial port, and the Duke of Argyll advised Lord Russell to seize her. Lord Russell felt disposed to follow this advice and submitted an order to the Cabinet. The Duke has told what followed: "When you brought it before the Cabinet there was a perfect insurrection. Everybody but you and I were against the proposed step. Bethell was vehement against its '*legality*,' and you gave it up."²

Mr. Adams always inclined to regard Lord John Russell as an honest man, and he may have been right; but as much could not be said of Bethell, who was Lord John's evil genius, and who finally contrived to put the ministry in a position in which it could only defend its integrity by admitting its imbecility. Apparently, until he pondered upon Collier's opinion, Earl Russell never appreciated what his position would be, should he have to defend himself against John Bright on the charge of having been privy to a conspiracy to build a Confederate navy in Great Britain in fraud of the neutrality laws. Gladstone, who was not directly responsible for the conduct of foreign affairs, might not shrink from such shame if he thought it profitable to himself; but Lord John had a certain instinct of honor which, at least in the long run, revolted against secret treachery. And in this Lord Russell did not stand alone. After experiment with a system of fraudulent neutrality not only Lord Russell, but Lord Palmerston and, to do him justice, Gladstone himself, together with most of the aristocracy, would have preferred an open war, if only an open war had not been, as they thought, so dangerous. In their minds all turned upon the power of the North, in combination with

been able to trace the source of the betrayal of the decision of the Government which prompted the sudden escape of the *Alabama*. He showed me what purported to be a copy of a short note signed by V. Buckley and addressed to Mr. [Caleb] Huse, the rebel agent, warning him that what he called his '*protégé*' was in danger. This Victor Buckley is a young clerk in the Foreign Office."

¹ Walpole, *Life of Lord John Russell*, II. 354.

² *Ib.* II. 355, note.

native radicals, to injure them, and they looked longingly for the moment when the North should sink low enough to be treated as a negligible enemy by men who had no stomach for a domestic broil. The exact order in which events followed each other during the next few months is therefore illuminating, for it throws into brilliant relief not only the differences in temperament among these three famous aristocratic statesmen, Lord Palmerston, Lord Russell and Mr. Gladstone, but it fixes the stage of decrepitude to which their class had fallen.

The *Alabama* sailed from Liverpool on July 29, 1862, just after McClellan's reverses in the Peninsula, and on September 14 London heard the news of the Second Battle of Bull Run. Taking these disasters together, it seemed, in Europe, as probable that the North had been overcome, and Lord Palmerston inclined to think that Washington must fall. On this supposition he wrote to Lord Russell that it might be judicious "to recommend an arrangement upon the basis of separation." Lord Russell waited a few days to see what would happen, and then replied that "whether the Federal army is destroyed or not," Great Britain should "recognise the Southern States as an independent State," and should arm Canada accordingly.

In September, 1862, the Northern fortunes fell to their lowest point, and, conversely, the aggressive temper of England culminated. Lord Palmerston's view fluctuated with the fluctuation of the war, like a barometer. Lord Russell showed less sensitiveness. Gladstone blundered. Gladstone so hungered to be Prime Minister forthwith that he tried to be conservative and radical at once. On September 17 McClellan won the victory of Antietam. Instantly, while Lord Palmerston cooled, Lord Russell took to equivocation, and Gladstone plunged forward, blatant. It mattered nothing to Gladstone what horse he rode provided he could win the stakes, but even Gladstone could not ride two horses, galloping in opposite directions, at the same time. The northern counties favored the radicals and the United States, and just at this time Gladstone, who was by way of posing as an advanced liberal and friend of the people and of economy, was invited to make a sort of triumphal progress through parts of Northumberland, Durham and Yorkshire. He was to begin with a great reception

at Newcastle on October 7, because, as his biographer has observed, "a sure instinct had revealed an accent in his eloquence that spoke of feeling for the common people."¹

The "common people" had rejoiced so much over the news of Antietam, then about a week old, that Lord Palmerston had made up his mind to wait awhile before committing himself further.² Not so Mr. Gladstone, who thought he had his opportunity to score double. After reflecting profoundly on his way to Newcastle on what he should say "about Lancashire, and America," he decided that the tide for the South was at flood and that he would swim with it. In this mind he made a speech in the Newcastle town hall which must always rank as one of the most remarkable of his life. He said: "We know quite well that the people of the Northern States have not yet drunk of the cup, . . . which all the rest of the world see they nevertheless must drink of. We may have our own opinions about slavery; we may be for or against the South; but there is no doubt that Jefferson Davis and the other leaders of the South have made an army; they are making, it appears, a navy; and they have made what is more than either, they have made a nation."

Hardly two months had elapsed since Earl Russell had himself admitted, by ordering the arrest of the *Alabama*, that the navy of the South was an English navy, built against the most sacred obligations which one country can be under toward another. At Newcastle Mr. Gladstone glorified this breach of faith, and thus in substance announced himself in favor of an alliance with the South. Language by a minister, before a declaration of war, could hardly go further.

The speech made a prodigious sensation, but it was soon seen to be a mistake. Gladstone felt it to have been one with growing acuteness for many a long day. In a kind of public confession of his sins he afterward admitted that he had committed an "offence of incredible grossness." His excuse was twofold: first, that he must have been out of his senses at Newcastle, and, second, that Lord Palmerston "desired the severance [of the Union] as a diminution of a dangerous power." This, Gladstone protested, was a worse crime than his, only Lord

¹ Morley, *Life of Gladstone*, II. 77.

² Walpole, *Life of Lord John Russell*, II. 351.

Palmerston "prudently held his tongue."¹ Prudence was not Gladstone's strongest quality.

Lord Palmerston disliked Mr. Gladstone and disagreed with him on almost every subject, from his views on the suffrage, to his eternal preaching of economy and his sympathy with the downtrodden tax-payer. The Prime Minister was constantly lecturing his obstreperous Chancellor of the Exchequer on his errors, and he very willingly, therefore, took so excellent an opportunity to give him a lesson which he would remember. The next week he sent Sir George Cornewall Lewis to Hereford to correct Mr. Gladstone's notions of international law, and to make it clear that the Cabinet, as a whole, had no sympathy with them. Then Mr. Gladstone began to disclaim, and he continued explaining and disclaiming until he died.²

Meanwhile the proposition which Lord Palmerston had made to Lord Russell touching intervention remained to come before the Cabinet, and on October 2, in reply to a letter from Earl Russell, Lord Palmerston wrote that had the South continued its successes against the North, mediation might have been opportune, but that recently those successes had been checked. Therefore it would be wiser to wait. This was just before Gladstone's speech. On October 13 Lord Russell had not changed his mind, however much Lord Palmerston may have vacillated. On that day he circulated a confidential memorandum among the Cabinet rather urging the "duty" of "friendly and conciliatory" interposition. On October 23 the Cabinet met to consider this memorandum, but that day Lord Palmerston's opinion prevailed, and nothing was done.

At length Mr. Adams, thinking that he ought to take some notice of Mr. Gladstone's harangue, and being very anxious beside to know what it meant, asked Lord Russell to appoint an hour at which he might see him at the Foreign Office. Lord Russell named October 23, the very day of the meeting, and it is charitable to suppose that he fixed on a time after the meeting had adjourned in order that he might be able to speak definitely touching the future. Certainly the Secretary for Foreign Affairs distinctly told the American Minister that no change in England's policy of neutrality was contemplated,

¹ Morley, *Life of Gladstone*, II. 82.

² See C. F. Adams, *Studies: Military and Diplomatic*, 407.

either by Mr. Gladstone or by anybody else, for the immediate future, and Mr. Adams seems to have thought his manner conciliatory. Yet, when he gave this assurance, Lord Russell had decided not to drop his project of intervention. By some means a hint was conveyed to the French Emperor that an offer by him to co-operate in intervention with England might be opportune, and Napoleon made such an offer forthwith. This gratified Mr. Gladstone, but even with this help he doubted whether he could overcome the inertia of his colleagues. He had already recognized the failure of his Newcastle speech. The event justified his premonitions. The decisive test of strength fell on November 12. The day before Gladstone wrote home that both "Lords Palmerston and Russell are *right*," and yet he still doubted. On November 13 he recorded his defeat, and explained how Lord Russell had "turned tail" without "fighting out his battle," and how Lord Palmerston had given Lord Russell's proposal only "a feeble and half-hearted support."¹ Thus Lord Palmerston, who, more than any living man, incarnated the spirit of his class, appeared at this supreme moment, like Macbeth, letting "'I dare not' wait upon 'I would,'" while Lord John justified his reputation for duplicity, and Gladstone, for the first time, fathomed the impotence of his own order. From that day Gladstone had done with doubts and threw his lot with the radicals. And Gladstone was right; for an aristocracy which recoiled from stabbing democracy when democracy lay gasping, was moribund.

Nor did Gladstone stand alone in recognizing that the onset of the English aristocracy had collapsed with the repulse of Lee at Antietam. By a subtle instinct all Europe and America became conscious of a change of status. It was the United States now which pressed on England, not England on the United States. The dates fit with an astonishing precision. Hitherto Mr. Adams' work had been chiefly defensive, as in the affair of the *Trent*. He had indeed made energetic remonstrances in regard to the escape of both the *Florida* and the *Alabama*, but in neither case had he gone so far as to put a pressure, even verging on coercion, upon England to do her duty. He reached that point on the day when Great Britain

¹ Morley, *Life of Gladstone*, II. 85.

admitted to herself that she dared not strike the North after a victory.

On November 12, according to Gladstone, Lord Russell "turned tail," and Lord Palmerston flinched with him. On November 20, 1862, Mr. Adams, who knew nothing of what had gone on within the Cabinet, wrote to Earl Russell a powerful despatch, in which, while disclaiming an intention to imply that Her Majesty's Government countenanced the violation of her laws, he pointed out that the *Alabama* had been built, armed and manned by Englishmen; that, though the purpose for which she was designed was well known, she had been permitted to sail without any of the usual formalities; and that since she had not been seized. If this were to go on, he said, peace between neighboring countries "would be rendered by it almost impracticable." Therefore he demanded, in the name of his Government, redress for past injuries and protection for the future.

Earl Russell reflected upon this letter for a month and then replied that, so far as the past was concerned, as he had done his best under the law as the law was interpreted by the Counsel for the Crown, he could not admit the right of any foreign sovereign to call him to account. Imperfections in a municipal statute were not matters open to discussion. Therefore he declined to entertain claims for compensation for injuries consequent on the escape of the *Alabama*, but, touching the future, he made concessions. He admitted frankly that the "Government, after consultation with the Law Officers of the Crown, are of opinion that certain amendments might be introduced into the Foreign Enlistment Act, which . . . would have the effect of giving greater power to the Executive to prevent the construction, in British ports, of ships destined for the use of belligerents." Before, however, submitting such amendments to Parliament, Earl Russell proposed that my father should ascertain whether the United States would make similar alterations in their law, so that the changes might "proceed *pari passu* in both countries."

Without question when Lord Russell made this proposition he was sincere, but when he tried to carry it into effect he found himself as impotent as he had been when he tried to induce intervention. His letter to Mr. Adams offering to amend the

law was dated December 19, 1862, but on February 14, 1863, he wrote to Lord Lyons that the project of amending the Foreign Enlistment Act had been abandoned, as the Cabinet did not see how the "law on this subject could be improved." To the end of his life Lord Russell never seems to have understood what ailed the world in his latter days. He protested and probably believed that he had always intended to do right. In reality he was the victim of a condition of social dissolution which brought the lawyers forward, at whose head stood Lord Westbury.

Very uniformly, when a ruling class is tottering and no longer dares to use physical force, it seeks aid from the courts, and in 1863 the English aristocracy obeyed this general law. Not venturing upon an open war with America for fear of trouble at home, they resorted to fraud to compass their object, and to work a fraud upon their own laws they had to call in the lawyers. Thus, from the hour when Great Britain definitely abandoned the offensive, Mr. Adams found himself pitted against Lord Westbury in particular, and the bench and bar of England in general. In this field Mr. Adams fared well enough, but Lord Russell fared ill, for Earl Russell had no training as a lawyer and was always committing indiscretions. He began with one of the worst.

On March 26, 1863, Mr. Adams told Earl Russell that "England was at war with the United States, while the United States were not at war with England," and then pressed on him this alternative; either the law is "sufficient . . . and then let the British Government enforce it; or it is insufficient, and then let the British Government apply to Parliament to amend it.

"I said that the Cabinet were of opinion that the law was sufficient. . . . That the British Government had done everything in its power to execute the law; but I admitted that the cases of the *Alabama* and *Oreto* were a scandal, and in some degree a reproach to our laws."¹

After this admission the Foreign Office could not refuse to test the efficiency of the Foreign Enlistment Act, which the Cabinet had declined to amend on the authority of Lord Westbury, who advised them that it was enough.² On March 30, 1863, four days after this interview, Mr. Adams denounced the

¹ *Lord Russell to Lord Lyons*, March 27, 1863.

² *Adams to Seward*, February 13, 1863.

Alexandra. Lord Russell laid the evidence before the Law Officers of the Crown, and on April 4 he received an opinion, based on the decision of the Supreme Court of the United States in *United States v. Quincy*, 6 Peters, 448, that the *Alexandra* should be seized under the Foreign Enlistment Act. And seized she accordingly was the very next day. The issue had now been narrowed to this: Could Mr. Adams goad the British Government into protecting the United States either with or without the sanction of law; or would the gentry so far succeed in paralyzing the law, and in preventing the Government from overstepping it, that war would follow from inertia? This issue had to be fought out primarily in the courts, and, as the crisis approached, no Southern sympathizer, who respected his political standing, cared to make himself conspicuous in the parliamentary arena. John Bright awed the House of Commons, and beyond the precincts of Westminster matters had gone ill with those who had interfered. Lord Palmerston had made a sally, and in one short day had had enough; Earl Russell, with his moral garments in tatters, as he himself admitted by describing his administration as a scandal, was trying to cover his reputation with the shreds that remained; while Gladstone, the greatest orator which the gentry produced during the nineteenth century, had so exposed himself at Newcastle that his own chief had turned and rent him. All were dumb. A situation could hardly have been graver, and at this juncture Lord Westbury's influence predominated. To this several causes contributed. Not only was the Chancellor the official adviser of his colleagues upon the law, but his range of activity was wide. He could intrigue in the Cabinet and in Parliament, with the bench and the bar, and in intrigue Lord Westbury had few rivals. Whatever Lord Westbury's motives may have been, had he been regularly retained to emasculate the English neutrality laws, he could hardly have worked harder or more insidiously, while advancing to a predetermined end by a series of premeditated steps. He first suppressed the Duke of Argyll's proposal to arrest the *Alabama* in the colonies, he next prevented the amendment of the Foreign Enlistment Act, although the Law Officers of the Crown had advised it,¹ and

¹ *Earl Russell to Mr. Adams*, December 19, 1862. *Adams to Seward*, February 13, 1863.

lastly he evolved a subtle legal theory with the apparent purpose not only of absolving Great Britain from responsibility for any abuse, however flagrant, of her territory by the Confederacy, but for preventing her from submitting to arbitration any claims for reparation for the injury which the United States might endure thereby. According to Lord Westbury the whole question hinged not on what men did, but on what they thought. This was his celebrated doctrine of *animus*. British subjects might build, equip, arm and man fleets of cruisers, and send them to sea to be sold to the South for purposes of war, if it could not be proved that in such transactions these Englishmen had acted as agents of the South, and not as speculators. If they speculated in battleships as merchants, without pre-existing contracts which made them agents, all was lawful. By parity of reasoning, Great Britain had no responsibility for her legislation or for her police beyond that of defending the good faith of her ministers.

Great Britain, acting as a neutral, might be mistaken, she might be remiss, she might do what she should not have done, or she might neglect to do what she should have done, — this was immaterial. The only question between the nations was, "whether, from beginning to end," Great Britain "had acted with sincerity." He pressed this doctrine in his speeches in Parliament, and he laid it down from the bench.¹

The inference is almost irresistible that Lord Westbury intended not only to legalize the grossest of all frauds by encouraging the perversion of evidence, as the Chief Baron of the Exchequer afterward pointed out, but also to make the submission to arbitration of claims arising from such frauds practically impossible. Bethell was a singularly astute modern man, who could hardly have failed to perceive from the beginning whither his reasoning led, nor did he shrink from following that reasoning to the end. In 1869 Mr. Sumner relied on him as an authority for his law when he originated the "indirect claims"; so did Mr. Davis at Geneva. But Lord John Russell was another matter. Lord John, whose mind was never one of the most lucid, and who was beside a relic of a bygone age, saw nothing absurd in declaring categorically, first, that Eng-

¹ Hansard, *Parliamentary Debates*, Third Series, cxci. 347, 348. *Ex parte Chavasse*, 12 *Law Times*, New Series, 249.

land alone must be the judge of her domestic legislation; of then alleging, as an excuse for not arresting pirates fitting in English ports, that he had no power to do so under English statutes; and finally of refusing compensation for the injury those pirates wrought on a friendly people, because he could not allow the good faith or the good conduct of English ministers, or the competence of English lawyers, to be impugned by a foreign nation. Yet, according to Westbury, the good faith of Lord Russell and of Sir Roundell Palmer was the only vital matter in issue.

Surely no one in modern times, save a British aristocrat of the Waterloo generation, could have been capable of such arrogance.

It is nothing to the purpose that his arrogance escaped Earl Russell, or that he failed to understand how he had come into a position where he had to be arrogant to defend himself against a criminal accusation. Earl Russell was an old man who had been born and bred in an atmosphere in which arrogance toward foreigners was as natural as it was in 1861 in a Southern planter toward blacks. The fact remains that, but for Bethell, Earl Russell could not have been accused of fraud.

When the *Alabama* escaped through what even Earl Russell, toward the close of his life, admitted to have been his own slackness, he would have atoned for his fault by seizing her in the colonies, but Bethell stopped him. When Mr. Adams urged him to amend a statute under which such outrages as the escape of the *Alabama* could be perpetrated, he assented, and would have brought a bill into Parliament to strengthen the Foreign Enlistment Act, but Bethell interposed. Lastly, when it came to submitting the claims of the United States to arbitration, Earl Russell found himself confronted with Lord Westbury's doctrine, that the only matter in issue was his own honesty. That was why *due diligence* and *good faith and honesty* were always confounded in his mind.

Such was Lord Westbury, brought forward by the decay of the aristocracy to a position of leadership in their contest with democracy; nor in all England, perhaps, could a man of equal parts have been found less apt to lead with credit. Unhappily for them, also, the aristocracy were hardly more discreetly

served by those common law judges on whom they relied to manipulate the law to meet their necessities.

Among the survivals of an arrogant age, one of the stiffest in the year 1863 was Sir Frederick Pollock, Lord Chief Baron of the Exchequer. Although Sir Frederick did not spring from noble lineage like Lord John, he was more reactionary, having entered Parliament in the Tory interest, and having served as Sir Robert Peel's Attorney-General, whereas Lord John had been a Whig from birth. Sir Frederick was a year older than Lord Palmerston, and was turned of eighty when on June 22, 1863, he sat with a jury to hear the case of the *Alexandra*. Lord Selborne, who represented the Government in the prosecution, first as Solicitor, and afterward as Attorney-General, has hinted that Pollock's mind had become impaired,¹ and perhaps it is charitable to assume that his memory had failed, for the choice lies between this and suspecting that he tried deliberately to falsify the record. Still, it must be conceded that, in the contest which ensued between him and Sir Roundell, he showed no feebleness but, on the contrary, routed his antagonist. Throughout the American war the rock on which the British aristocratic party, both political and legal, split, was incoherence. As Lord Palmerston's Cabinet never could unite on any aggressive policy, so neither could the lawyers unite on any theory touching the law. In this cause Pollock fell foul of Bethell, denouncing his doctrine of *animus* as fraudulent, and he did so, apparently, only to save himself from discredit by discrediting the Government, when both wished to suppress the North.

I think it probable, from what subsequently occurred, that during the litigation Westbury may have explained to Pollock his theory of *animus*. I am inclined to this surmise because of Pollock's familiarity with notions which he would have been unlikely to originate, and which he stated in language paraphrasing that used by Lord Westbury afterward in *Ex parte Chavasse*.

Be this as it may, Pollock's conduct at this trial created a scandal which at the time almost equalled the scandal of the escape of the *Alabama*, and increased very sensibly that excessive weakness of the Palmerston Government which during

¹ *Memorials, Family and Personal*, II. 446.

the winter of 1864 threatened to induce war through simple inertia. This was, of course, what Southerners themselves and the more extreme of their sympathizers in England wanted, but it was a result which could only be attained by a prostitution of the courts, and a degradation alike of bench and bar. Nothing could be plainer than the issue between the two countries, as Sir Roundell Palmer himself presented it in this very cause:

If there be a war, in which, though the Sovereign of Great Britain professes neutrality, yet a great number of the subjects act in a manner directly contrary to it, . . . by organizing naval equipments, it is perfectly plain that the result will be this: a state of things will be produced which alters the balance of power practically, . . . something is done which throws a power from the neutral country into the scale of one of the belligerents against the other, and which makes the belligerent who suffers by it say, I care not what your Vattel, or Grotius, or Puffendorf may say; I find that I am practically suffering from this, . . . so that it is better worth my while to go to war with you too, and to have it out openly, than allow this state of things to go on.

The Attorney-General then supposed a war between England and France, with the United States neutral and fitting out naval expeditions for France, and suggested that possibly, the United States being powerful, England might hesitate.

But it might, I think, be quite conceivable and possible that we in that case, as we, I think, have done in all similar cases in the course of our history, might say: We will not endure it, and if this goes on, we will rather go to war with you than let war be carried on practically against us from your shores under pretence of neutrality. That we should do that with a weak power like Sweden, can any human being entertain a doubt? These are the dangers that have to be provided against.

Such bluntness shocked the morals of Sir Frederick, who could not tolerate, in his court, that counsel should suggest that England had ever done that to a weak power which she would not do to a strong. So he scolded Sir Roundell. And yet Sir Frederick knew as well as any other man that, for centuries before the war of Secession, Great Britain, as a belligerent, had

ruthlessly trampled upon all weak neutrals, sometimes seizing their commerce like a common pirate, sometimes firing on their frigates and taking from them their crews, sometimes blockading their harbors, and sometimes burning their capital cities. In short, there was no outrage on the weak which Great Britain had not gloried in perpetrating, and she reached the acme of her violence in the wars of the French Revolution and of the First Empire, which began soon after the adoption of the Constitution of the United States in 1789. During those wars the feeble republic of the United States suffered much from both France and England, and it had devolved upon General Washington to hold the balance between the two. As General Washington's Secretary of State, Mr. Jefferson conducted a correspondence on neutrality which ever afterward ranked as a classic, and, for a full generation after its foundation, the Supreme Court of the United States had been deeply engaged in considering the law upon this class of questions, so that when Sir Frederick came to expound the Foreign Enlistment Act, in the trial of the *Alexandra*, the American authorities were recognized as the standard. Of British authorities on neutrality there were few or none.

It followed that when English judges like Bethell and Pollock, in serving the aristocracy, undertook to emasculate the Foreign Enlistment Act, their first anxiety was to explain away these American authorities. This they might possibly have done without too much ignominy, had they taken care beforehand to agree upon some theory of construction. Instead of doing so they quarrelled, with the result that finally Sir Frederick roundly accused those who followed Lord Westbury's doctrine of trying to perpetrate a fraud, while the Law Officers of the Crown more than intimated that Sir Frederick had deceived them by direct falsehood.

On these facts there can be no dispute, as they are all matters of record; nor can there be any dispute as to the character of the measures taken by Lord Westbury to prevent the amendment of the Foreign Enlistment Act. The Lord Chancellor of England declared the Foreign Enlistment Act sufficient, at the moment when the Chief Baron of the Exchequer stated from the bench, that, were the statute construed as Lord Westbury would construe it, a fleet of ships might be sailed through

it. And it was by denouncing the Lord Chancellor's construction as fraudulent, that the Chief Baron defended the liberation of the *Alexandra*. That the wrangle was disgraceful was shortly admitted by the English Parliament and by the English people, as one of the first acts of the Conservatives on attaining to power was, in January, 1867, to appoint a commission to so revise the law touching neutrality, that such scandals could not occur in future. To make all this clear, I must go at large into the *Alexandra* litigation.

When the long wars began and Washington issued his proclamation of neutrality, it was universally accepted as an axiom, that if, when two nations are at war, a third assists one, by participation in hostilities, to the detriment of the other, that third nation becomes a party to the conflict, and may be treated as an enemy by the country which is aggrieved. The principle was plain; the difficulty lay in defining what acts constituted a participation in hostilities. With this class of questions Washington and Jefferson had endless difficulties; for they soon found that neutrals, like other people, must live, and to live must trade, and that all trade would be substantially cut off if giving aid to one belligerent were to participate in hostilities. For example, no aid can be more effective than food and munitions of war. But to neutrals perhaps the most tempting of all branches of trade was trade in munitions of war, which the belligerents often had to buy regardless of price. This had always been so, and had been recognized as legitimate within certain limits, ever since the Venetians sold material of war to the Saracens to use against the Crusaders, although that particular commercial enterprise the Church had denounced as excessive.

On the other hand, the belligerent, who suffered from these sales, claimed the right to seize the so-called *contraband of war*, wherever he could find it in transit, and thus, at last, the United States found themselves obliged to draw a line between a commercial venture in material of war, which was not a breach of neutrality and therefore innocent, and an armed participation in the war by her citizens, which was a crime. For instance, it being admitted that American citizens might sell arms and gunpowder to a belligerent, and also a ship, provided the ship were a merchantman, was it or was it not legitimate for an

American to build and arm a ship, and sell it as a speculation to a belligerent, knowing that the ship, if sold, would be used to cruise against the commerce of a friendly power? Or, putting it in other words, was a cruiser sent to a belligerent *contraband of war*, whose sale the Government might countenance, or was the escape of such a ship from an American port a breach of neutrality? As a rule both the American diplomatic correspondence touching neutrality, and the rulings of the American courts, were remarkably sound; but on one occasion Mr. Justice Story indulged his love of writing legal treatises instead of legal opinions, not only to the inconvenience of Mr. Adams, but to the mortal peril of the United States. Justice Story provided Lord Westbury and Sir Frederick Pollock with their best argument, and also with the weapon with which they did most of their mischief.

After the peace at Ghent in 1814, a certain American privateer, named the *Monmouth*, had been dismantled at Baltimore, and having been rerigged and partially rearmed was sent by her owner, loaded with contraband of war, to Buenos Ayres, to be sold, if possible, to the Government of that revolted colony, in her war of independence against Spain. The Spaniards, afterward, did not deny that the sending of this ship from Baltimore to South America was a genuine commercial speculation, made without previous contract or understanding with the insurgent Government. In Buenos Ayres the supercargo made a bargain, and, having sold the ship to the Government of Buenos Ayres, made no objection to the reinlistment of the crew, and to her return to Baltimore to add to her armament and to obtain more men. Having done this, she sailed again from Baltimore as a commissioned ship of war belonging to Buenos Ayres, named *Independencia*, to capture Spanish merchantmen, and among those which she captured was the *Santissima Trinidad*, which she took into Norfolk. There the Spanish Consul began suit for restitution of prize on two grounds: first, because the *Independencia* had originally escaped from Baltimore in violation of the neutrality of the United States; and, secondly, because, after her return to Baltimore and before her capture of the *Trinidad*, she had unlawfully augmented her armament. The court decreed restitution on the second ground, as being clearly established, and had

Story confined himself to the point in issue, all would have been well. But so simple a disposition of an interesting case did not content the learned justice. He went into a discussion to show that originally the *Monmouth* had been sent to Buenos Ayres not as a cruiser intended to participate in the war, but as a commercial venture, — an article to be sold, in a word, like any other munition of war: that, in fine, she was contraband of war, and that therefore her first departure was innocent, so far as any violation of United States statutes was concerned.

The question as to the original illegal armament and outfit of the *Independencia* [that is to say, of the old American privateer, the *Monmouth*] may be dismissed in a few words. It is apparent that, though equipped as a vessel of war, she was sent to Buenos Ayres on a commercial adventure, contraband, indeed, but in no shape violating our laws or our national neutrality. If captured by a Spanish ship-of-war during the voyage, she would have been justly condemnable as good prize, for being engaged in a traffic prohibited by the law of nations. But there is nothing in our laws, or in the law of nations, that forbids our citizens from sending armed vessels, as well as munitions of war, to foreign ports for sale.¹

The British statute of 1819, for the preservation of neutrality, was founded on, and was, in substance, the same as the American statute of 1818, so that an interpretation of the one would generally fit the other, and the British enactment forbade any subject either "to equip, furnish, fit out or arm," or to procure or assist in the equipping or arming, of any vessel "with intent to cruise or commit hostilities against any . . . State . . . with whom His Majesty shall not then be at war." Under such a statute the first point to determine was whether a ship of war could be built by a neutral and sold to a belligerent at all, and Justice Story had certainly held in 1822, in the case of the *Santissima Trinidad*, that the *Monmouth*, a war-ship equipped, armed and even manned at Baltimore, might be sent to Buenos Ayres and sold, there being no pre-existing contract touching the building or sale; and that the only resource of Spain was to capture the *Monmouth* in transit, if she could.

Had the Confederates been well advised in 1861, when they began building their navy, they would have kept well within

¹ The *Santissima Trinidad*, 7 Wheaton, 283.

this decision, but over-confidence was always their bane, and they took little or no pains to disguise their transactions either in Liverpool or elsewhere. Therefore the Government had no difficulty in proving, what amounted to, Confederate ownership, so much so that such ownership was in substance admitted. Consequently, when the *Alabama* was ready for sea she could not sail openly, as the *Monmouth* had sailed, as contraband of war. She had to be smuggled out of England as an unarmed ship, and she took her arms afterward from a tender in a foreign port. So with the *Alexandra*, the defence called no witnesses to deny that the ship was built under a contract with the Confederate Government. They rested on the proposition that she was "unarmed" and "unequipped." Before a judge of a certain kidney, sitting with a Liverpool jury, such a subterfuge might answer well enough in the matter of a wooden gunboat which might by a stretch of the imagination be used for trade; but it was by no means certain that, even with such advantages, it would hold water in a process against iron-clad battleships provided with steel rams to be used to sink an enemy, independent of artillery, like those the Lairds were then completing in the Mersey.

Lord Westbury, who was an astute lawyer, proposed to stop this bungling by concealing Confederate ownership, and passing the ship off either as belonging to some foreign principal other than the South, or as the property of an Englishman, who held it for sale, upon speculation, to whomever might care to buy, consequent on completion and departure. If only the Confederate ownership were disguised, Lord Westbury felt confident of his case, because he knew that it would be impossible to prove that a secret intent to participate in the war had existed in the minds of Englishmen who chose to deny it. This would bring the rams within the ruling of Story in the *Santissima Trinidad*, and this he thought would suffice. Lord Westbury's difficulty lay not with the Foreign Enlistment Act, which he had carefully prevented Lord Russell from amending because it served his purpose so well, but with Sir Frederick Pollock, who was not only very dull but very obstinate, and was determined at any cost to acquit the *Alexandra*.

The *Alexandra* was not a very powerful or important ship, and in contracting for her and building her Captain Bulloch had

been careless. When he came to build the rams, he used extreme caution, covering the ownership most elaborately. Here lay the distinction between the two cases. Evidence which would serve to liberate the *Alexandra* would not clear the rams. This Lord Westbury must have known, and he would have risked the *Alexandra* to make sure of the rams, while Pollock, who was quite impracticable, seems to have cared for nothing but the verdict in the case in which he was interested. Hence the split between the two judges and the scandal which so affected English judicial process that when Lord Russell came to deal with the rams, he had to cast aside all regard for law and act despotically.

Had Lord Westbury presided at the trial of the *Alexandra*, there would have been no scandal. He would have managed the case differently. Of this there can be no doubt. In April, 1865, just as the war was closing, in the case of *Ex parte Chavasse*,¹ Lord Westbury went out of his way to explain his views. Though not called upon to do so, he then expressed the opinion that a British subject might lawfully build, equip, arm, and man a ship of war, and might send her from a British port to any point he chose beyond British jurisdiction, and there sell her to a belligerent whom he knew to be ready and waiting to buy her, provided the Government could not prove that in these transactions he had acted as an agent and not independently. How effective this construction of the law would have been, had it been adopted earlier, is proved by the effect it had even at that late hour. After her liberation in Liverpool, in 1864, the *Alexandra* was rearrested in the Bahamas, and though evidence of armament and the like was clear enough against her, she was again liberated by the colonial Vice-Admiralty Court for reasons which are better stated in the words of the local Attorney-General and of the Governor than in mine. The Attorney-General wrote in explanation of his failure: "The judge . . . required a description of evidence which it was impossible for me to procure, and which, I venture to add, will be found alike impracticable in any other case of forfeiture under the same statute." While Governor Rawson in transmitting the documents to Mr. Cardwell observed with feeling:

¹ 12 *Law Times*, New Series, 249.

Moreover, if Lord Westbury's *dictum* be accepted, that it needs "proof of an agreement, understanding, or concert with a belligerent Power" to establish a violation of the Foreign Enlistment Act, it will be almost impossible to attempt to enforce the law. Volunteer cruisers may be equipped and manned in swarms, with no power on the part of the Government to detain them in or out of British waters, and with a certainty that as soon as they reach the belligerent country the necessary agreement will be eagerly made, and all the evils would arise which the Act of 1819 was intended to prevent.¹

Because of Lee's surrender the colonial government did not appeal from this judgment, but in due course their despatches were received by Earl Russell, who turned them over to Sir Roundell Palmer, who was still Attorney-General. Sir Roundell found himself in what would have been an embarrassing position had the war not ended, as he had taken something very like Lord Westbury's ground in the *Alexandra* case, for doing which Sir Frederick had savagely attacked him. As it was he contented himself with observing that though the Attorney-General of the Bahamas might have "exercised a sound discretion . . . in declining to appeal," yet "we desire not to be understood as expressing our agreement either with the general reasoning of the judgment, or with the construction placed by it on the word 'intent' in the Foreign Enlistment Act."² It is also noteworthy that this opinion repudiating Lord Westbury and *Ex parte Chavasse* was written on July 31, 1865, and that on July 4 Lord Westbury had resigned his office because of a vote of censure of the House of Commons. The opinion of Judge Doyle in the Vice-Admiralty Court was delivered on May 30, 1865, after Appomattox, it is true, but still six weeks before Bethell's disgrace. Whether Sir Roundell on July 31, 1865, would have been so clear as to the error in Lord Westbury's judgment, had Lord Westbury still been the Lord Chancellor of the administration of which he was Attorney-General, is a matter for speculation.

¹ Appendix to the *Case presented on the part of the Government of Her Britannic Majesty* (at Geneva), II. 286, 288.

² *Law Officers of the Crown to Earl Russell*, July 31, 1865. Appendix to the *Case presented on the part of the Government of Her Britannic Majesty* (at Geneva), II. 303.

Part II.

On June 22, 1863, on information filed by the Attorney-General, the cause of the *Alexandra*, for violation of the Foreign Enlistment Act, came on for trial at Liverpool, before Chief Baron Pollock and a special jury. Sir William Atherton, Attorney-General, Sir Roundell Palmer, Solicitor-General, and Sir Robert Phillimore, Queen's Advocate, were the principal counsel for the Crown. Sir Hugh Cairns¹ led for the claimants. The Attorney-General opened the case to the jury.

All these counsel were among the ablest lawyers of England, and all were as well acquainted with the American decisions as were Lord Westbury or Sir Frederick. The Law Officers of the Crown understood perfectly the necessity of distinguishing the case of the *Alexandra* from that of the *Santissima Trinidad*, and they felt confident that, upon the evidence, they could do so, since the ownership of the *Alexandra* by the Confederate Government was public and, in substance, undisputed. Sir Frederick, on his side, was fully determined that no such distinction should be made before him, and wrangling between the judge and counsel began almost immediately. The weak point in the Confederate case was the recklessness with which Confederate officers had swaggered about Liverpool talking of the ship they were building in Miller & Sons' yards, and the equal recklessness with which Miller & Sons had habitually recognized these Confederates as their principals. The facts were so notorious that Sir William, in his information, alleged with confidence, that the *Alexandra* had been built and "equipped" within the United Kingdom in order to be employed "in the service of certain foreign States, styling themselves the Confederate States of America, with intent to cruise and commit hostilities," and so on with the usual verbiage of an indictment. He did not assert that she had been "armed." He drew his information expressly to exclude the pretence that the *Alexandra* had been built like the *Monmouth*, as a mercan-

¹ Hugh McCalmont, first Earl Cairns (1819-1885), one of the most eminent English jurists of the nineteenth century. He was elected member for Belfast in 1852; appointed Solicitor-General by Lord Derby in 1858; Attorney-General in 1866; and Lord Chancellor by Disraeli in 1868. It was on this occasion that Lord Chelmsford protested that he had been dismissed to make way for Cairns "with less courtesy than if he had been a butler."

tile speculation. He rested on the fact that she had been built by the Confederate Government in England, as a war-ship designed to "cruise" against the United States, which would be, he argued, a clear breach of neutrality. On his side Sir Frederick perceived that if he permitted the Government to ask for a verdict on this ground, the case was lost. He therefore intervened very energetically. He undertook to dragoon the Attorney-General into admitting that if a British subject had a right to build a war-ship to sell to a belligerent at all, it made no difference whether he built the ship as a speculation on his own private account, or whether he built her on an order from the belligerent who needed her. The dialogue on this point between the counsel and the judge is so typical of the temper of the time that it is worth extracting *verbatim*.

Sir Hugh Cairns had been speaking and had been contending, on the authority of Story in the *Santissima Trinidad*, that a British subject might lawfully build, fit out, arm and even man a war-ship, and sell her to one of two belligerents. To this the Attorney-General replied that such a doctrine might possibly be relevant if it were supported by evidence, but in this case Sir Hugh could not pretend that the *Alexandra* had been built as a speculation, since, though he had the builders and owners at hand he had called no witness to contradict the testimony presented by the Government, which tended to show that she had been built on order, and under the inspection of officers of the Confederate navy. Hence, he insisted, a conclusive presumption arose "that the vessel when completed should not be sold, but should at once proceed to be employed in the service of . . . the Confederate States."¹

Lord Chief Baron. Do you admit that a ship-builder could sell a vessel to either of the belligerent parties?

Mr. Attorney-General. I say that there was no intention to sell. . . .

Lord Chief Baron. I am asking with a view to obtaining some information as to what your opinion of the law is. I ask you whether, in your opinion, it is lawful for a ship-builder to build . . . a vessel capable of being turned into a war-like vessel, . . . with a view to offer it for sale indifferently to one or other of the belligerent parties? . . .

¹ A report of this trial is to be found in the *Case of the United States (at Geneva)*, v.

Mr. Attorney-General. My object in not wishing to bind myself to any conclusive answer is this, that, as it appears to me, the facts and circumstances of the present case give no rise at all —

Lord Chief Baron. I am not quite sure of the facts because you did not give me an answer; if you give an answer, I should put another question, and then you might perhaps see that it was perhaps very germane to the inquiry. I have no hesitation in saying that, according to all the authorities and all the decisions that we can get at, a ship-builder has as much right to build a ship and to sell it . . . to any belligerent parties, [as] the maker of any sort of cannon or muskets, or pistols, or anything else. It is laid down in Kent's *Commentaries on American Law* that it is the right of neutral subjects to supply both belligerents with arms, gunpowder, and all munitions of war; to which I add, why not ships?

Mr. Attorney-General. I do not controvert the proposition, nor do I controvert the doctrine laid down in the two cases of the *Independencia* [The *Santissima Trinidad*] and the ship *Alfred*, . . . which was cited this morning. . . .

Lord Chief Baron. Apparently, then, you concur in what I state?

Mr. Attorney-General. I do not deny those authorities, but I distinguish them very much indeed from this case. I say that they have no bearing on the present case. The present case I put forward, as it was put forward at the outset, as being a case in which a particular intent is discovered to have existed, and I prove —

Lord Chief Baron. The act does not say that it is unlawful to build a vessel with that intent.

Mr. Attorney-General. I shall come to my learned friend's observations on these various points in their order.

The Lord Chief Baron tried to force the Attorney-General to admit the soundness of Story's *dictum* in the *Santissima Trinidad*, so that he might go on to argue that there could be no difference between building on speculation and on order, and that if a man might do the one he might equally well do the other. If Pollock could obtain this admission from the Government, he saw before him all the yards of England open to the Confederates. The Attorney-General saw it too, and declined to commit himself, although he was shyer of disputing the doctrine of the *Trinidad* than he might have been had he felt sure of the Chancellor. What Sir William did was to evade a direct answer and pass as fast as he could to Sir Hugh Cairns' second proposition. Sir Hugh contended that, even supposing he admitted the *Alexandra* to have been built expressly for

the Confederates, yet to be guilty she "must be a fully armed vessel" when about to leave port. No, replied Sir William, that is not so.

I do not pretend that the vessel was armed. The question was whether the ship when seized had been either "equipped," or "furnished," or "fitted out," or "*armed*." The statute, he maintained, indicated an alternative.

Lord Chief Baron Pollock. Certainly my present impression is that they [the words] all mean precisely the same thing. . . . To equip a ship of war you must furnish it with arms. . . . I apprehend that all these words mean substantially the same thing, whether you call it "equip," or "furnish," or "fitting out," or "arming". . . .

This was a directer attack on the statute than the other; but, as soon as Sir William could silence the Chief Baron long enough to complete a sentence, he pointed out to him that the crime consisted not only in "equipping," but in attempting to "equip," and that it would be enough if this "attempt" were proved.

But, [more convincing than this,] if one might, in addressing the jury, advert to the consequence of such a construction being adopted [as that contended for by the defence and supported by Pollock], it would be very easy to show that if it were to be adopted on authority the Foreign Enlistment Act would be a dead letter, and might as well be thrown into the fire or repealed. . . . We have, as a matter of evidence before us in the case, the history of the *Alabama*, . . . He [Sir Hugh Cairns] says that to constitute a violation of this section the vessel must be armed. . . . What would be the consequence of this construction? We do not need to draw on imagination, because we have the example of the *Alabama* staring us in the face. My learned friend stands on the word "*armed*." As long, therefore, as you stop short of arming . . . the executive cannot interfere. The vessel cannot be seized. . . . Now, then, take the case of the *Alabama*. . . . We know, in point of fact, that she obtained her armament at Terceira, but Terceira is, for the purpose of the present observation, merely a place out of the Queen's dominions. She would have obtained her armament equally well out of the Queen's dominions if there had been a tender lying with that armament in the Irish Channel, four miles say from the nearest point of the English coast, and of course an equal or greater distance from the Irish coast. Now suppose that to have occurred, the British

Government to be informed on credible and incontestable evidence—I have a right to take it so far that the *Alabama* . . . has been built for the express purpose . . . that she shall, as soon as safely she can out of reach of British law, take on board her armament, . . . and proceed on the operations of a ship of war . . . supposing that to be done once, . . . and then supposing the same thing to happen the next day or the next week, a similar ship, a similar destination, a similar preparation, and a tender . . . lying outside . . . to furnish and complete the armament; and if you suppose that such instances recurring . . . and the officers of the British Government to be distinctly informed of them, . . . and yet no proceeding taken to prevent the departure of any one of those vessels from the British port—I ask you whether the provisions of this section would not be rendered entirely inoperative . . . almost under view of the officers and ministers of that law? I then appeal to the language of the statute. That is an observation to my Lord. I find that “arming” is used as an alternative expression. . . .

Lord Chief Baron Pollock. I have got the word “equip” in Webster’s Dictionary: “Equip, to furnish with arms, or a complete suit of arms for military service.” . . .

Then the Attorney-General cited, in support of his contention, the case of *The United States v. Quincy*,¹ in which the Supreme Court held that in an indictment for attempting to fit out or arm the privateer *Bolivar*, it was not necessary to prove that the ship had been actually armed to justify a verdict of guilty. And so presently the Attorney-General closed his address and the presiding judge charged the jury. Over this charge,² at a subsequent period, a scandalous wrangle took place, the Chief Baron repudiating his own words, and counsel pressing him with them until he complained that no judge in his time had been so treated. And indeed, at the present day, such an address as Pollock then made seems incredible, and it would now naturally be assumed that there had been errors in the report. But there can have been no error, for the language which Sir Frederick Pollock denied was reprinted *verbatim* by the British Government for presentation as evidence before the Tribunal at Geneva, and those documents were prepared after mature deliberation, under the direction of the Lord

¹ 6 Peters, 445.

² The charge is to be found in Appendix 3 to the *Case presented on the part of the Government of Her Britannic Majesty* (at Geneva), p. 53.

Chancellor, Lord Hatherly, and of Sir Roundell Palmer, counsel in the *Alexandra* case, who in the autumn of the year 1872, after the award at Geneva, succeeded Lord Hatherly as Lord Chancellor in Gladstone's Cabinet.

After some preliminary observations, the Chief Baron quoted the words of Justice Story in the *Santissima Trinidad*, and added that, in his opinion, the subjects of a neutral power might lawfully supply a belligerent with munitions of war, "whatever can be used in war for the destruction of human beings."

Well, gentlemen, why should ships be an exception? In my opinion, in point of law, they are not. . . .

Now, gentlemen, I will state to you why I put the question I did to the Attorney-General. I said, Do you mean to say that a man cannot make a vessel intending to sell it to either of the belligerent powers that requires to have it? . . . Is that unlawful? The learned Attorney-General, I own, rather to my surprise, declined giving an answer to a question which I thought very plain and very clear. You saw what passed; I must leave you to judge whether there was anything improper in the manner in which I (so to express it) communed with the Attorney-General on the law, so that we might really understand each other, and that I might have my mind instructed, fitted out, equipped, and furnished, if you please, by the contents of his. Gentlemen, the learned Attorney-General declined to answer that question. But, I think, by this time, . . . you are lawyers enough to answer it yourselves. I think that answer ought to be, "Yes, a man may make a vessel." Nay, more, according to the authority I have just read, he may make a vessel and arm it, and then offer it for sale. So Story lays down.

But I meant, gentlemen, as I said then, if I had got an affirmative answer to that question, to put another. If any man may build a vessel for the purpose of offering it to either of the belligerent Powers who is minded to have it, may he not execute an order for it? Because it seems to me to follow, as a matter of course, if I may make a vessel and then say to the United States, "I have got a capital vessel, it can easily be turned into a ship of war: of course, I have not made it a ship of war at present; will you buy it?" If that is perfectly lawful, surely it is lawful for the United States to say, "Make us a vessel of such and such description, and when you have made it, send it to us."

Now, the learned counsel certainly addressed themselves very much to this view of the matter. It was said, But, if you allow this, you repeal the statute. Gentlemen, I think nothing of the kind.

What that statute meant to provide for was, I own, I think, by no means the protection of the belligerent Powers. . . . Otherwise they would have said, You shall not sell gunpowder, you shall not sell guns. . . . Why all Birmingham would have been in arms. But the object of this statute was this: We will not have our ports in this country subject to, possibly, hostile movements; you shall not be fitting up at one dock a vessel equipped and ready, not being completely armed, but ready to go to sea, and at another dock close by be fitting up another vessel, and equipping it in the same way, which might come into hostile communication immediately, possibly before they left the port. It would be very wrong if they did so, but it is a possibility. Now and then it has happened, and that has been the occasion of this statute. . . .

Now, gentlemen, I present the matter to you in another point of view. The offence against which this information is directed, is the "equipping, furnishing, fitting out or arming." Gentlemen, I have looked, so that I might not go wrong . . . at Webster's *American Dictionary*. . . . No one can complain that I refer to that. It appears there that to "equip" is to "furnish with arms." . . . And I own that my opinion is, that "equip," "furnish," "fit out," or "arm," all mean precisely the same thing. I do not mean to say that it is absolutely necessary (and, I think, that the learned Attorney-General is right in that), it is not perhaps necessary that the vessels should be armed at all points; . . . The question is, whether you think that this vessel was fitted. Armed she certainly was not; but was there an intention that she should be furnished, fitted, or equipped at Liverpool? Because, gentlemen, I must say it seems to me that the *Alabama* sailed away from Liverpool without any arms at all, merely a ship in ballast, unfurnished, unequipped, unprepared, and her arms were put in at Terceira, not a port in Her Majesty's dominions. The Foreign Enlistment Act is no more violated by that than by any other indifferent matter that might happen about a boat of any kind whatever. . . .

Gentlemen, if you think the object was to equip, furnish, fit out, or arm that vessel at Liverpool, then that is a sufficient matter. But if you think the object really was to build a ship in obedience to an order, and in compliance with a contract, leaving it to those who bought it to make what use they thought fit of it, then it appears to me that the Foreign Enlistment Act has not been in any degree broken. . . .

Attorney-General. Before the jury give their verdict, perhaps your Lordship would give us an opportunity of tendering a bill of exceptions to a portion of your Lordship's ruling.

Lord Chief Baron. I will accept any bill of exceptions you wish to tender.

Attorney-General. Strictly speaking, it must be done before the verdict is given.

Sir Hugh Cairns. Anything in point of form we will dispense with. The convenient way would be to do it afterwards, I suppose, from the notes of the Charge.

Then the jury returned a verdict for the defendant, as they had no choice but to do, under such directions, and the Attorney-General began again.

The Attorney-General. Would your Lordship allow me to hand up a very brief note, so that there may be no mistake? (*Handing a paper to his Lordship.*)

Sir Hugh Cairns. Perhaps your Lordship will let us have a copy of it?

Lord Chief Baron. It need not be done now. You may wish to put it in some other shape. There will be no mistake about it.

The Attorney-General. I was only anxious that we should quite understand what your Lordship has ruled and laid down to the jury. That is very shortly stated. . . .

Lord Chief Baron. No, you have got here that if the vessel was not intended to be furnished.

The Attorney-General. No, my Lord, it is "furnished or fitted out."

The Solicitor General. Your Lordship said that the words were the same. That every one of the words required a warlike armament at Liverpool. That is the point.

Lord Chief Baron. Mr. Attorney-General, I will not bind you to what passes on the present occasion. There cannot be any doubt now. I cannot alter the thing, and I have no doubt that you have a very accurate note of what I have said.

The Attorney-General. I only wish that we should have your Lordship's concurrence now, while the matter is fresh in your Lordship's recollection.

Lord Chief Baron. It cannot be a question of recollection. Depend upon it there is an accurate note of what I have said.

The Attorney-General. Will your Lordship allow me to send in a full note from the best materials that we can get?

Lord Chief Baron. Certainly.

No one now can ever know whether when Sir Frederick put Sir William off he acted in good faith or with premeditated

duplicity. Probably he felt instinctively a wish to leave some avenue of escape open should he find himself later on in danger of being overruled by his colleagues. But whether this be the true explanation of his conduct or not, he certainly put Earl Russell in a position which, without much exaggeration, might be called terrific. Earl Russell had been led to expect by his counsel that, however Pollock might behave, at least the Government would be able to try to have the worst of his rulings corrected by the House of Lords; but he soon learned that no appeal was open to him unless the Government's exceptions to the rulings of the presiding judge were signed by that judge, and that Pollock would sign nothing. Thus on the one hand Earl Russell could obtain no relief from the higher courts because of Pollock's bad faith, and on the other he could not amend the statute because of Bethell's obduracy. He saw himself drifting into a condition of impotence, when it would be impossible for him to prevent Confederate battleships from issuing from every dock in England.

Yet severe as was the stress under which as rigid a man as Lord John Russell finally bent, it was as naught beside the strain which Mr. Adams endured. He alone had forced the British Government to seize the *Alexandra* and pursue her in the courts; he was even then preparing to try to force them to seize the Laird rams. He had been sent to England as a diplomat and not as a lawyer. Suddenly he became involved in a ferocious combat with a series of the most exalted magistrates upon the English bench, beside whom politicians like Palmerston and Russell were as lambs. And this conflict lasted until he closed his public life with the rout of Lord Chief Justice, Sir Alexander Cockburn, at Geneva.

When the jury trial ended with a defeat for the United States and for the Crown, the cause went over for six months before it could be concluded, to allow time for counsel to draw their exceptions to the rulings of the presiding judge, and to await the sitting of the full court to hear argument on these questions of law. Meanwhile the Confederate agents, elated by their legal success, undertook to obtain recognition from Parliament. Here they were ignominiously beaten, and then, by common consent, all men drew aside while the American Minister closed with Lord John Russell in what was one of the fiercest

diplomatic struggles of the century. The United States had determined, law or no law, to force Great Britain to seize the Laird rams.

As we look back upon the year 1863 we wonder that at that supreme moment the Confederates should have committed their cause in the House of Commons to such a champion as John Arthur Roebuck. Roebuck had never carried much weight in English public life, and he was then old, eccentric and half-crazed with vanity. He actually believed that John Bright feared him in debate. Preparatory to making his motion for the recognition of the Confederacy on June 30, 1863, Roebuck had visited Paris, had obtained an interview with the French Emperor, and had conversed with him touching the foreign policy of England and France. Precisely what passed at that interview is uncertain, but, whatever it may have been, the Emperor did not intend to have the conversation published, and subsequently repudiated Roebuck. Roebuck not only made a violent and foolish speech in the House, but he undertook to tell Parliament the views of the French Emperor as though he were a species of special envoy. The result was that Palmerston snubbed him, John Bright rent him limb from limb, and Roebuck slunk away, without even daring in that friendly assembly to ask for a division on his motion.

Four days after this debate Vicksburg surrendered, Gettysburg was won, and Laird launched the first of his two iron-clad rams. On these rams now hung the fate of the Confederacy and of the English party which supported the Confederacy. It is true that the news of the Northern victories did not reach London until the middle of the month, but for a considerable time the conviction had been growing upon Englishmen that, however brilliantly the South might fight on land, she must ultimately succumb to exhaustion were the blockade to be maintained. They knew also that the South could not raise the blockade unassisted, and that the only assistance possible was English. England might once have intervened with arms, but intervention which had failed in November, 1862, had been publicly discredited by Roebuck's grotesque incompetence. A single chance remained. Ships might sail from England powerful enough to destroy the fleet of the United States and to devastate the Northern coast. Then war would be inevi-

table, and with war with England the American Union must perish.

On July 11, during the interval between the Roebuck debate and the arrival in London of the news of Vicksburg, Mr. Adams began his attack on the Foreign Office. He had from the very outset to make it clear that he was leading up to an ultimatum, for he knew well that nothing less than the presentation of an ultimatum, however he might disguise it in phrases, would stimulate Lord Russell and Lord Palmerston to beard the vast conspiracy by which they were opposed. He began by expressing the regret he felt at having to recur to those "acts of hostility" at Liverpool which had been the subject of his remonstrances ever since his arrival. "In many preceding communications I have endeavored to set forth the facts which appear to me to prove, beyond the possibility of a doubt, the establishment on the part of the insurgents in the United States of a systematic plan of warfare upon the people of the United States, carried on from the port of Liverpool, as well as in less degree from other ports of this kingdom." Strong as his language had to be, however, he was first very careful to explain that he did not intend to imply "the smallest disposition on the part of Her Majesty's Government in any way to sanction, or even to tolerate, the proceedings complained of." But after making this concession to politeness, he stated explicitly that the excuse of lack of legal power would not be accepted by the United States as justification for a dereliction of duty.¹

Fruitless as have been the greater part of the remonstrances which I have had the honor to make, I am well aware that the causes assigned for it do not relate to the want of will, so much as to the absence of power in the existing laws to reach a remedy. But, admitting this to be the case, if an injury be inflicted upon an innocent friendly nation, it surely cannot be a satisfactory reply to its complaints to say that the Government, having the will, is not also clothed with the necessary powers to make reparation for the past and effect prevention for the future. . . .

I now have the honor to solicit your attention to the evidence of the last and gravest act of international hostility yet committed. It is the construction and equipment of a steam-vessel of war, of the most formidable kind now known, in the port of Liverpool. All the

¹ *Mr. Adams to Earl Russell, July 11, 1863.*

appliances of British skill to the arts of destruction appear to have been resorted to for the purpose of doing injury to the people of the United States. The very construction of such a vessel in a country itself in a state of profound peace, without any explanation of the objects to which it is to be applied, is calculated to excite uneasiness on the part of those involved in a contest where only it could be expected to be made of use. But when it further appears that it is constructed by parties who have been already proved to have furnished one vessel of war to the insurgents in America, and who are now shown to be acting in co-operation with their well-known agents, . . . it is not unnatural that such proceedings should be regarded by the Government and people of the United States, . . . as virtually tantamount to a participation in the war by the people of Great Britain.

He enclosed a number of affidavits. The affidavits showed that the rams had been begun before the *Alabama* sailed on July 29, 1862, and that plans and specifications for them had been prepared much earlier. These plans and specifications a witness had seen and read at the office of Fraser, Trenholm & Co., of Liverpool, a branch of a Charleston firm called John Fraser & Co., whose head, George A. Trenholm, was the Secretary of the Confederate Treasury. Fraser, Trenholm & Co. managed the English portion of the Confederate finances. They paid the seamen on Confederate war-ships, they negotiated Confederate loans, they conducted blockade running, handled Confederate cotton, and their office was the bureau at which Captain Bulloch of the Confederate navy, who built the *Alabama*, might be seen almost daily, and where he conversed freely touching his plan of campaign. In April, 1863, George Temple Chapman, of New York, had met Bulloch at this office. Bulloch boasted to Chapman that he had already fitted out the *Florida* and the *Alabama*, and "that he was fitting out more, but that he managed matters so that he could defy any one to prove that he was fitting them out for the use of the Confederate Government." The witnesses went into details touching the size and power of the ships, the thickness of their armor, the diameter of their turrets, and the length of the ram or piercer, which they carried on their bows, calculated to be submerged about two feet, when the ships were loaded. All this and much else to like effect these affidavits contained, which Mr. Adams sent to Earl Russell not quite four

months after the famous interview of March 26, during which the British Secretary of State for Foreign Affairs had admitted to the American Minister that "the cases of the *Alabama* and *Oreto* were a scandal, and in some degree a reproach to" English law.¹

Commenting on these details some months later, Mr. Seward wrote to Mr. Adams that the navy could not resist, and that "The new vessels which the Lairds are preparing must, therefore, be expected to enter Portland, Boston, New York, or, if they prefer, must attempt to break the blockade at Charleston, or to ascend the Mississippi to New Orleans."²

On July 13 Earl Russell answered Mr. Adams' note promising to do what he legally could, but he soon found that legally he could do nothing. He had lost the case of the *Alexandra*, and the quarrel between Pollock and Atherton, which was already seething, seemed likely to prevent a revision of the rulings which had amounted to a direction to find a verdict against the Crown. Nor was Lord Russell so favorably situated in regard to the rams as he had been in regard to the *Alexandra*. Bulloch, as he boasted, had learned wisdom. He had caused the Lairds to make a fraudulent conveyance to a French firm, known as Bravay & Cie., who pretended to act as agents for the Viceroy of Egypt, and all had been prepared in advance at Liverpool in anticipation of an investigation by the Foreign Office. On July 8, 1863, three days before Mr. Adams' note to Earl Russell, the Collector of Customs at Liverpool had advised the Commissioners of Customs that Mr. Dudley, the American consul at Liverpool, had asked him to detain an iron-clad built by Messrs. Laird of Birkenhead, but that he had satisfied himself, "from the inquiries I have made from the builders," that the rams "were not built for the Confederates, but are for Frenchmen who first contracted for them." In a postscript he added that the French consul had called on him to say that the ship was French property, and that he would furnish the necessary papers when she was ready for sea. Now, it happened that in the preceding February, Earl Russell had been advised by Mr. Colquhoun, the British Consul-General at Cairo, that this same Bravay claimed to be executing a ver-

¹ *Earl Russell to Lord Lyons, March 27, 1863.*

² *Seward to Adams, September 5, 1863.*

bal order in England from the late Viceroy for two steel-clad frigates. But Mr. Colquhoun added that he knew that the Viceroy, after visiting the docks in England and France, had decided against that type of ship. "It is not, therefore, likely he should give an order to one in the trade."¹

As usual, Earl Russell referred the whole correspondence to the Law Officers of the Crown, who were altogether unmoved by such indications of fraud. On July 24 Atherton, Palmer and Phillimore advised the Foreign Office that "we are clearly of opinion that Her Majesty's Government ought not to detain or in any way interfere with the steam-vessels in question."² On July 25 Mr. Adams sent to Earl Russell further evidence confirming Mr. Colquhoun's doubts touching Bravay, and this information was supplemented by Baron Gross, the Secretary of the French Embassy, who denied all interest on the part of France. From this time forward Mr. Adams without intermission inundated the Foreign Office with affidavits, copies of letters, and details touching the movements of Confederate agents, concluding a note written on August 14 in these words: "It is difficult for me to give your Lordship an adequate idea of the uneasiness and anxiety created in the different ports of the United States by the idea that instruments of injury of so formidable a character continue to threaten their safety, as issuing from the ports of Great Britain, a country with which the people of the United States are at peace." Just seven days before this note Mr. Dudley had notified the legation that the first ram "is shipping her turrets. She no doubt can be got ready for sea in a week's time."

Earl Russell was terribly perplexed. He telegraphed to Earl Cowley at Paris, on August 22, to ask if the rams were intended for the French Government. Next day but one Cowley replied: "I beg to report that the iron-clad vessels are not for the French Government."

On August 28 Mr. Dudley wrote to the Collector at Liverpool, requesting that a guard should be put over the ram, as he was informed that the Lairds "meant to run her out to sea either to-night or to-morrow night."

¹ Appendix to the *Case presented on the part of the Government of Her Britannic Majesty* (at Geneva), II. 315.

² *The Law Officers of the Crown to Earl Russell*, July 24, 1863.

On August 31 Earl Russell received a telegram from Mr. Colquhoun, stating that the Viceroy of Egypt absolutely repudiated all connection with the rams. At Liverpool the true ownership was notorious. On September 4 Mr. Dudley wrote in something like despair to Mr. Seward:

If . . . we could summon witnesses and compel them to testify, the case would not be so hard. As it is, you can only obtain it in one of two ways, persuasion and bribery. The first, in a hostile community, like Liverpool . . . is almost impossible, and the last taints the evidence. . . . The newspapers comment upon the matter, and there is scarcely a man, woman, or child in the place but what knows these rams are intended for the Confederates. Among the business men on 'Change it is the leading topic of conversation. No one pretends to deny, but all admit and know, that they are for this service.¹

What Mr. Dudley wrote on September 4 was not only common knowledge then, but had been trumpeted throughout England and America for many weeks. Earl Russell knew the facts as well as Mr. Dudley, so did Lord Palmerston, so did the Crown Counsel; but the Crown Counsel had had enough at the *Alexandra* trial. No power on earth could wring an opinion from them that the Foreign Enlistment Act sufficed to meet the emergency. On August 20 they wrote to Earl Russell with solemnity: "We cannot advise Her Majesty's Government to interfere in any way with these vessels. There is, in fact, no evidence capable of being presented to a Court of Justice of any intention on the part of any persons in this country, that either of these vessels should be employed in the belligerent service of the Confederate Government against the United States; even if it would have been proper . . . to act upon the assumption that the law recently laid down by the Lord Chief Baron in the case of the *Alexandra* is incorrect."

Earl Russell saw himself fairly trapped. The result had now come to be a problem in dynamics. The Minister of the United States had to develop energy enough to drive the British Government forward in spite of every obstacle which wealth, social influence and legal cunning could put in their path, or war from inertia between England and the United States must supervene. On September 1 Earl Russell gave what purported to be his irrevocable decision.

¹ *Dudley to Seward*, September 4, 1863.

There is no legal evidence against M. Bravay's claim, nor anything to affect him with any illegal act or purpose; and the responsible agent of the Customs at Liverpool affirms his belief that these vessels have not been built for the Confederates. Under these circumstances . . . Her Majesty's Government are advised that they cannot interfere in any way with these vessels. . . . A Court of Justice would never condemn in the absence of evidence, and the Government would be justly blamed for acting in defiance of the principles of law and justice, long recognized and established in this country.

Earl Russell indeed wrote this note on September 1, but, apparently, yielding to that weakness which finally brought the Palmerston administration almost to the point of loss of volition in American affairs, he delayed sending it so long that Mr. Adams did not receive it until about half-past four o'clock on the afternoon of September 4. During these three days Mr. Adams, who suspected that the Crown Counsel were wavering, became so uneasy that he decided to make a further effort. He therefore took advantage, as he explained to Mr. Seward, "of some depositions, of no great additional weight," to write again, on September 3.

He began by pointing out that since France and Egypt both repudiated the Laird rams no reasonable doubt could remain that on leaving Liverpool they would be "at once devoted to the object of carrying on war against the United States of America." He then added, in words which could bear but one interpretation, that though he believed that he had already stated the importance which his Government attached to the sailing of these ships "with sufficient distinctness," yet he felt it his painful duty to make known that he had in some respects "fallen short in expressing the earnestness with which I have been . . . directed to describe the grave nature of the situation in which both countries must be placed in the event of an act of aggression committed against the Government and people of the United States by either of these formidable vessels."¹

¹ *Mr. Adams to Earl Russell*, September 3, 1863.

The precise order which this correspondence followed is of interest, since it illuminates the intellectual peculiarities of both Earl Russell and of Sir Roundell Palmer. On September 1 Earl Russell wrote to Mr. Adams: "That Her Majesty's Government are advised that they cannot interfere in any way with these

In this last paragraph Mr. Adams referred to Mr. Seward's famous instructions of the 11th of the previous July. In these instructions Mr. Seward, in considering the position taken by Pollock, after pointing out that, were the rulings of the Chief Baron in the *Alexandra* case to be affirmed and acted upon by the Cabinet, the President would be obliged to assume

vessels," because there was no legal evidence against M. Bravay, and also because "the responsible agent of the Customs at Liverpool affirms his belief that these vessels have not been built for the Confederates."

However, it happened this letter was held back and only delivered to Mr. Adams at 4.20 P. M. on September 4, as appears from his note to Mr. Seward of that date. Meanwhile Mr. Adams wrote his strong note of September 3, which was indorsed, at the Foreign Office, as received on the same day. The hour is not indicated. On September 3 Mr. Layard, the Under Secretary, wrote to the Treasury as follows:

FOREIGN OFFICE, September 3, 1863.

SIR,— I am directed by Earl Russell to request that you will move the Lords Commissioners of Her Majesty's Treasury to give directions to the Customs authorities at Liverpool to stop the iron-clad vessels at Messrs. Laird's yard at Birkenhead, as soon as there is reason to believe that they are actually about to put to sea, and to detain them until further orders. I am, &c.

A. H. LAYARD.

Also, on September 3, Earl Russell wrote to Lord Palmerston from Scotland, to tell Lord Palmerston that he had ordered the rams to be detained. Between September 1 and September 3 nothing had been received at the Foreign Office save the affidavits sent by Mr. Adams and another similar one sent by Mr. Dudley to the Custom House.

On September 1 Earl Russell had ordered Mr. Layard to write to the Treasury, that "if sufficient evidence can be obtained to lead to the belief that they are intended for the Confederate States of America" the vessels ought to be detained. This was the day on which he officially notified Mr. Adams that there was no such evidence. It follows that if Earl Russell had not been moved by the letter of September 3, then he changed his mind, since the evidence remained the same, without cause. This was not the statement made by Sir Roundell, who said emphatically in debate that "the Government had grounds for what they did."

On February 12, 1864, the day after the debate in the Lords, Mr. Adams made this comment in his diary:

"There was another debate on American affairs in the Lords, in which Lord Derby proved more successful in ferreting out the facts than on the first night. His compliment to me as having benefited both countries by assuming the grave responsibility of suppressing a despatch is a little beyond the reality. At the same time he dwells upon the series of events in the early part of September, and describes them as a diplomatic triumph, which they truly were."

"Lord Russell's reply was not quite ingenuous. He now maintains that his answer on the 1st of September was not final. The language of that note will speak for itself. To affirm that the change in the evidence within three days was such as to make a complete revolution in the tone is scarcely consistent with probability. Yet if he can make any use of such a flimsy pretence to protect himself from attack, I am content."

that no law existed in Great Britain to protect the United States, and that it was proper that Mr. Adams should know and "be able to communicate to Her Majesty's Government" what the President's views would be in that contingency, formulated this ultimatum:

If the law of Great Britain must be left without amendment, and be construed by the Government in conformity with the rulings of the Chief Baron, . . . then there will be left for the United States no alternative but to protect themselves and their commerce against armed cruisers proceeding from British ports as against the naval forces of a public enemy. . . . The navy of the United States will receive instructions to pursue these enemies into the ports which thus, in violation of the law of nations and the obligations of neutrality, become harbors for the pirates.¹

Hitherto there had been no need even to consider the propriety of presenting so drastic a despatch to Earl Russell, but if Earl Russell should, after the intimation contained in the note of September 3, decline to act, Mr. Adams would have to decide whether he would proceed to extremities, or whether he would suppress the instructions and use other means. Should he decide on the latter course, and the rams escape, he would be held responsible for disobedience to orders.

That day, September 3, 1863, when Earl Russell's note declining to stop the rams, and Mr. Adams' note conveying a veiled ultimatum touching their sailing, crossed each other, marked a crisis in the social development of England and America. To Mr. Adams the vacillation of the Cabinet seemed astounding weakness. On September 8 he wrote to Seward, "The most extraordinary circumstance attending this history is the timidity and vacillation in the assumption of a necessary responsibility by the officers of the Crown." To us, who look back upon the Civil War through a vista of fifty years, "the most extraordinary circumstance" seems to be that terrible energy which enabled the United States in the extremity of her agony to coerce the nobility and gentry, the army, the navy, the church, the bench, the bar, the bankers, the ship-builders, the press, in fine, all that was wealthy, haughty, influential and supposed to be intelligent in Great

¹ *Seward to Adams, July 11, 1863.*

Britain. And it was as the vent of this energy that Mr. Adams, after receiving Earl Russell's letter of September 4, wrote on September 5, although despairing of success, his memorable declaration of war. Enclosing a paragraph cut from a Southern newspaper which contained the familiar threat of burning Northern ports with English-built ships, he observed as calmly as though he were summing up a mathematical demonstration:

It would be superfluous in me to point out to your Lordship that this is war. . . . In my belief it is impossible that any nation, retaining a proper degree of self-respect, could tamely submit to a continuance of relations so utterly deficient in reciprocity. I have no idea that Great Britain would do so for a moment.

Still he did not communicate Seward's instructions. He suppressed them. After profound reflection he decided not to cast away the last hope of maintaining peace. He continued, instead of enclosing a copy of Mr. Seward's note:

After a careful examination of the full instructions with which I have been furnished, in preparation for such an emergency, I deem it inexpedient for me to attempt any recurrence to arguments for effective interposition in the present case. The fatal objection of impotency which paralyzes Her Majesty's Government seems to present an insuperable barrier against all further reasoning. Under these circumstances, I prefer to desist from communicating to your Lordship even such further portions of my existing instructions as are suited to the case, lest I should contribute to aggravate difficulties already far too serious. I therefore content myself with informing your Lordship that I transmit, by the present steamer, a copy of your note for the consideration of my Government, and shall await the more specific directions that will be contained in the reply.¹

This letter may well be taken as a perfect specimen of the art of applying the maximum diplomatic pressure along the path of minimum resistance. And yet, strangely enough, this diplomatic gem was not needed. For once Mr. Adams' instinct had failed him. He, possibly through anxiety, credited Lord Russell with more tenacity than he had. Mr. Adams already had prevailed. England had surrendered to the note of the third.

¹ *Mr. Adams to Earl Russell, September 5, 1863.*

FOREIGN OFFICE, September 4, 1863.

SIR,— With reference to your letter of yesterday's date with respect to the iron-clad steam rams from Messrs. Laird's yard at Birkenhead, as well as with reference to previous letters from you on the same subject, I have to inform you that the matter is under the serious and anxious consideration of Her Majesty's Government.

I beg you to accept the assurances of the highest consideration with which I have the honour to be, Sir, your most obedient servant,

RUSSELL.

Charles F. Adams, Esq., &c., &c., &c.

Further than this Earl Russell, for the moment, could not go, for he did not know whether the Cabinet would sustain him. He had acted on his own responsibility against the advice to the Crown Counsel, and he could only appeal to Lord Palmerston to stand by him. On September 3, the day on which he received the letter which appears to have determined him, he wrote confidentially to the Prime Minister:

MY DEAR PALMERSTON,— The conduct of the gentlemen who have contracted for the two iron-clads at Birkenhead is so very suspicious that I have thought it necessary to direct that they should be detained. The Solicitor General [Sir Roundell Palmer] has been consulted, and concurs in the measure as one of policy though not of strict law. . . . If you do not approve, pray appoint a Cabinet for Tuesday or Wednesday next.¹

Mr. Adams sent his despatch of September 5 somewhat early. Just before three o'clock in the afternoon he received the note containing Lord Russell's capitulation, and he immediately took himself to task for what he condemned as an error of judgment. "I need not say," he told Mr. Seward, "that had I known of the later course of the Government in season, I should have held it [his declaration of war] back. Feeling as I do the heavy responsibility that must devolve upon me in the conduct of this critical transaction, it is not my disposition to say or do the least thing that may add to the difficulties . . . between the countries."² And yet had Mr. Adams from the beginning been able to read the inmost mind of all the members of the British Cabinet, though he might have postponed a blunt presentation of the alternative, and though he might have

¹ Walpole, *Life of Lord John Russell*, II. 359n.

² Adams to Seward, September 8, 1863.

softened it somewhat in language, he could not have changed its substance. The fact had become patent, and sooner or later the fact had to be clothed in some form of words. The pass had come when nothing short of impending war would bridle the English aristocracy. Lord Palmerston, indeed, had to uphold Lord Russell, else Lord Russell would have resigned and the Cabinet would have fallen, but Lord Palmerston could not defend and never did defend his colleague without stultifying himself. The Crown Counsel declined to stretch the Foreign Enlistment Act to cover the case of the rams, but Palmerston, as Prime Minister, had in Parliament refused to amend the statute because it sufficed, and this notwithstanding an avowal by Earl Russell, which he must have known, that the escape of the *Alabama* was a scandal. On consideration Lord Palmerston could think of nothing better to do than to buy the rams for the navy. But Bravay, when asked, would not sell. Such conditions could not long continue without the fall of the ministry or the release of the ships. The position was not tenable. And Earl Russell in reply to Mr. Adams, feeling what he risked and how he was beset, told him with bitterness that he did not appreciate what had been done for him. The Earl began by observing that he had read "your letter of the 5th instant . . . with great regret." He insisted that the Cabinet had taken every step to enforce the law which was "within their competency," and that they would, "from a due regard to their own good faith, and to the national dignity, continue . . . to pursue the same course." He concluded by hoping "that the Government at Washington may take a calmer and more dispassionate view of these matters than seems to be inferred from your note."¹ Earl Russell could have made no such mild reply as this had he been in possession of Mr. Seward's despatch, no matter what the consequences might have been to himself or to England.

Whatever might have been Earl Russell's anxieties and troubles, and however strong the Cabinet's wish "faithfully to perform" their duty, Mr. Adams too well knew their weakness to relax for an instant his grasp. On the contrary, after the seizure of the rams his tone rose from one of stern remonstrance to one of sterner menace. Come what might, so long as he stayed in England, those rams should never sail.

¹ *Earl Russell to Mr. Adams, September 11, 1863.*

In his letter of September 11 Earl Russell had only promised that the rams should be held "until satisfactory evidence can be given as to their destination, or, at all events, until the inquiries which are now being prosecuted . . . shall have been brought to a conclusion." To this my father rejoined that if Lord Russell felt impelled to tell him that he had read the letter of September 5 with "great regret," it could not "exceed the regret with which I wrote it."

I trust I may be pardoned if I was somewhat moved on perceiving that the peace of two great countries, and the lives of perhaps thousands of the people inhabiting them, were about to be seriously endangered, . . . by reason of the want of a scruple of technical evidence to prove a gross and flagrant fraud. With regard to the opinion of Her Majesty's Customs Agent at Liverpool, I had already had abundant cause to know the value of that in various . . . remonstrances against the notorious proceedings at that port. If Her Majesty's Ministers look no further for proof to invalidate the evidence which I have had the honor to present, I can readily foresee what will be the issue. . . . I may be pardoned if I here remind your Lordship of the significant language used in a parallel case in former days by that distinguished British statesman George Canning, when he deprecated the consequence of "permitting the paltry, pettifogging way of fitting out ships in British harbors" to "sneak his country into a war."

If then, there be any virtue in the authority upon which Her Majesty's Government deliberately decided that the provisions of the Foreign Enlistment Act could be enforced, without . . . amendment, this is surely a most fitting and urgent occasion. . . . I have reason to believe that no efforts are intermitted to prepare the war vessels for immediate departure. . . . I shall be little surprised at learning . . . of . . . any . . . expedient, however audacious . . . which may have for its object the possession of these formidable ships.¹

Since Trafalgar no British minister had endured such language, and Lord John Russell could not endure it in silence and yet hope to keep his authority in Parliament. As it was, this haughty aristocrat was soon to hear himself accused of cringing before a foreign power. So when Lord John came to answer imputations against the honesty of his subordinates and reflections on his own common sense, he launched into

¹ *Mr. Adams to Earl Russell*, September 16, 1863.

vaunts which he knew to be untrue, and, what was worse, which he knew might before long become the jest of Europe, by being published, if not at home, at least in America.

There are, however, passages in your letter of the 16th, as well as in some of your former ones, which so plainly and repeatedly imply an intimation of hostile proceeding toward Great Britain on the part of the Government of the United States, unless steps are taken by Her Majesty's Government which the law does not authorize, or unless the law which you consider as insufficient is altered, that I deem it incumbent upon me, in behalf of Her Majesty's Government, frankly to state to you that Her Majesty's Government will not be induced by any such consideration, either to overstep the limits of the law or to propose to Parliament any new law which they may not, for reasons of their own, think proper to be adopted. They will not shrink from any consequences of such a decision.¹

The very day after he had pledged his word that nothing could induce the ministry to which he belonged "to overstep the limits of the law," he received notice from the American legation that a strong detachment of the crew of the *Florida* had reached Liverpool, consigned from Brest, by a commander in the Confederate navy, to Captain Bulloch, who had built the *Alabama*, and who was then building the rams. Such a violation of neutrality, Mr. Adams was very sure, "if committed by any agent of the United States, would be likely to attract the immediate notice of Her Majesty's Government," but this was incidental. The coming to England of this force indicated a design to seize these ships and take them to sea by violence.²

Hitherto Liverpool had been solidly for the South. Now it split into factions. The officials of the Custom House were more convinced than ever that the Lairds were spotless, and that, even if they were building battle-ships for the Confederates, they might be implicitly trusted to notify the Government in season, of the day and hour on which they were to sail. So high did the reputation of the Lairds for truth and veracity stand among this gentry. The naval officers, on their side, were equally convinced that there was grave danger of an

¹ *Earl Russell to Mr. Adams*, September 25, 1863.

² *Mr. Adams to Earl Russell*, September 24, 1863 (received September 26).

outbreak, and there can be little doubt that some attempt at a rescue would have been made, had not the guarding of the rams been assigned to Captain Inglefield of the *Majestic*. For once the Ministry employed, in the enforcement of their neutrality, an energetic, competent and honest agent. Captain Inglefield did not rest until he had opened the docks, towed the battle-ships into the river, and anchored them under the guns of his frigate, with a strong guard on board.

Only a consecutive perusal of the correspondence of those months can make us realize how high passions ran. On September 24 Sir Roundell Palmer became Attorney-General, and the tone of the Law Officers of the Crown sank lower than ever. Conversely affairs in Liverpool waxed warlike. Captain Inglefield made all his preparations for boarding the ram called *El Mounassir* in force, should the Lairds try to run her out on some foggy night. On October 25 he wrote confidentially to the Admiralty, that the ill-feeling among the Laird hands was so great that he had obtained one of the fastest steamers on the river, because, when it came to towing the ram from the dock, "one back-turn of the tug's wheels might send our pinnace and crew to the bottom (should it be found necessary to board), . . . [therefore] I determined to send a fast steamer which would be quite a match for the tug-boat, and could act, in case of necessity, to take forcible possession. . . . I proposed . . . (on receipt of a preconcerted signal) to embark sixty armed men at a few minutes' notice, and so to put myself speedily in a position to support the . . . Custom House officers."¹ To the Custom House the Lairds continued to be to the end as innocent as lambs. On October 14, long after the crew of the *Florida* had arrived, the Collector wrote to the Commissioners of Customs that, because of the presence of these men, "It appears that apprehensions are entertained that forcible possession may be taken of these ships, and that they may be carried away by Confederate agency; I have therefore instituted careful inquiry . . . and the result of such inquiry is, . . . that there is not the slightest foundation for supposing that any such intention exists."²

¹ *Captain Inglefield to Vice-Admiral Sir F. Grey*, October 25, 1863. Appendix to the *Case presented on the part of the Government of Her Britannic Majesty (at Geneva)*, II. 417.

² *Edwards to the Commissioners of Customs*, October 14, 1863. *Ib.* II. 401.

On October 29 Mr. Adams pointed out to Mr. Seward that, while he had confidence in Captain Inglefield, it was remarkable "that any such question as the defiance of the Government in a leading British port should be supposed possible," and commented on the fact that though Mr. Laird, member for Birkenhead, was said to be a timid man, he had dared, in a speech at Liverpool, "to threaten the Government itself, if they attempt to interpose their power to prevent his evading the law of the land, even though thereby it should hazard the peace of the country."

By the middle of October every one whom Bravay had originally mentioned as being builders of the rams had repudiated him. No one would even consider them as a possible purchase except the Sultan of Turkey, who recently had intimated that, if such ships were really for sale he might like to see the plans. He was, however, not dealing through the Viceroy, and was committed to absolutely nothing. On October 16 Earl Russell received this telegram from Mr. Colquhoun: "The Viceroy denies emphatically that he has in any manner engaged to induce the Porte to purchase the iron vessels. He declares that the subject was never mentioned between himself and M. Bravay, and that the latter is perfectly at liberty to do what he pleases with them. His Highness from the first refused to recognize any of Bravay's contracts." All this time the Lairds clamored for their ships louder and louder, and Lord Russell applied to the Law Officers to know how to justify the seizure. From the beginning Sir Roundell had been of the mind that the seizure could not be justified under the law, yet the seizure had been made, and he could only tell Lord Russell that he must inform the Lairds that he had acted "under the authority of the provisions of the Foreign Enlistment Act." But still Sir Roundell was as timid as any hunted hare. The main question, after all, said he, is "whether M. Bravay in fitting them [the rams] out at Liverpool had a fixed intention that they should be employed in the Confederate service." This question, he continued, depending largely "upon moral and circumstantial evidence, makes it important to exclude, if possible, the supposition" that "M. Bravay may really have contemplated a sale of these vessels to the Turkish through the Egyptian Government . . . with respect to which our present information

is not satisfactory."¹ Sir Roundell's opinion was actually given five days after Mr. Colquhoun's telegram. It would not be easy in all the long roll of opinions of attorney-generals to find one more craven.

So the autumn wore away, and as winter came on Lord Russell meditated on facing Parliament with these rams on his hands, and Sir Roundell on meeting the Court of Exchequer without a bill of exceptions signed by the Chief Baron. Sir Roundell knew that Sir Frederick would do him and the Ministry all the harm he could, and Sir Roundell was not the man to coerce a domineering judge. His predicament was almost as unpleasant as Earl Russell's, while he had a thinner skin and far less courage. So when it came to the test between these men Sir Frederick routed Sir Roundell and precipitated chaos. On this subject Sir Roundell was always somewhat sore, and he subsequently, in his *Memorials*, published his version of what happened. His tale begins with the jury trial. I give it in his own words somewhat condensed.²

The Lord Chief Baron, after summing up the evidence, put before the jury the question of law on which it was his duty to direct them. The Chief Baron, having stated that the word "equip" in the statute meant "arm," went on to say:

It seems to me that, if the *Alabama* sailed from Liverpool without any arms at all, as a mere ship in ballast, so that her armament was put on board at Terceira, which is not in Her Majesty's dominions, then the Foreign Enlistment Act was not violated at all. The question is, was there any intention, in the port of Liverpool or any other port, that the ship should be (in the language of the Act of Parliament) equipped, fitted out, or armed, with the object of taking part in any contest? If you think that the object was to equip, furnish, fit out, or arm that vessel at Liverpool, then there is sufficient matter for your consideration. But if you think the object really was to build a vessel in obedience to orders and in compliance with a contract, leaving it to those who bought it to make what use they thought fit of it, then it appears to me that the Foreign Enlistment Act has not in any degree been broken.

On the one hand it was admitted that the ship had been built as a ship of war for the Confederate States; on the other hand

¹ *The Law Officers of the Crown to Earl Russell*, October 19 and 21, 1863.

² Earl of Selborne, *Memorials, Family and Personal*, II. 442 *et seq.*

there was nothing to show that she had been armed, or that there had been an intention to arm her, within British jurisdiction. On this evidence and with these directions the jury

had no choice but to return a verdict against the Crown, acquitting the ship, which they did. We desired to bring the question of law . . . before the House of Lords. This could only be done at that time in one way, by what was called a "Bill of Exceptions" to the ruling of the Judge; which it was necessary to tender immediately. . . . This we proposed to do, and wrote out and would have handed in our exceptions, but for the interposition of the Judge; who said, "I will accept any Bill of Exceptions you choose to tender." The proceeding was technical; . . . and it was usual, in cases of importance, to allow time for drawing it up. When, therefore, the Lord Chief Baron intimated that we were not to be bound by what had been prepared at the moment, . . . we left the court well satisfied with that understanding. . . . That any difference could arise as to what the direction given to the jury was, did not occur to any of us as possible; we had the words before us, which seemed unambiguous. If the Lord Chief Baron were not satisfied with our way of putting it, it could be put in his own words, or in any other way (the substance being the same) which he might consider more accurate. Our surprise, therefore, was great, when, after a long correspondence with Sir William Atherton during the vacation, his Lordship disclaimed the ruling, . . . and refused to sign any Bill of Exceptions at all. In vain did Sir William Atherton press upon him the words which he had used, and especially what he said about the *Alabama*. He replied that "the *Alabama* had no more to do with the matter than Noah's Ark."

So stood the case, when Sir William Atherton was compelled, by the illness of which he died early in the following year, to retire from office. I succeeded him as Attorney-General on the 24th of September; my own place being taken by Collier.

When the Courts met at the beginning of Michaelmas Term, my first official duty was to move for an enlargement of the time within which the Bill of Exceptions, in the *Alexandra* case, might be signed. I said I had no reason to believe that, on that subject, there would be any difference between our opponents and ourselves; and that I could not relinquish the hope that the Lord Chief Baron might still agree to what was necessary, in order to obtain such a determination of the real question as might be satisfactory to all parties, and useful to the public. But the Lord Chief Baron interposed; "he saw no prospect whatever of any change in the view which he had taken in his correspondence with Sir William Ather-

ton." He denied that he had told the jury the ship must be armed in order to come within the Act, and said he had left the matter at large to them. When I stated my conviction that the jury had been guided by what they understood to be his interpretation of the Statute, he answered, — "Nothing of the kind." His colleagues upon the Bench did not seem to like the situation; and, in their anxiety to find a way of escape from it, they suggested that they had power, by making new Rules of Court, to give a right of Appeal in Crown suits, . . . and intimated that they were prepared to make use of that power. . . . To this the Lord Chief Baron was willing to agree. He was more than eighty years old, having presided over the Court of Exchequer for nineteen years, with general respect. To press any further a public controversy with him, of which the character must have become personal, would have been painful and unseemly; and, under these circumstances, the only thing possible was to give up the Bill of Exceptions which he refused to sign, and to move for a new trial, hoping to have a right of Appeal under the new Rules, which were accordingly made.

I obtained a Rule *nisi* for a new trial; and, on the motion that it should be made absolute, an elaborate argument took place. It was then admitted that the question did depend entirely upon the point of law which we had desired to raise by our Bill of Exceptions. Judgment was given on the 11th of January, 1864, when the Court was equally divided. The Lord Chief Baron took the same view of the law which we had understood him to lay down to the jury at the trial, and Baron Bramwell agreed with him. The other two judges, Barons Channel and Pigott, dissented, adopting the construction of the Statute upon which the Crown relied. As a necessary consequence of that equal division of opinion, the motion for a new trial was refused. In vain did we appeal to the Exchequer Chamber, and from the Exchequer Chamber to the House of Lords. In both it was held, by a majority of voices (though in both there were great judges who differed from the majority), that the Court of Exchequer had no power to make the new Rules giving us a right to appeal. The consequence was that the *Alexandra* was released, and passed into the service of the Confederate States. The question of law was left undetermined (I should rather say) in greater uncertainty than before.¹

When Sir Roundell wrote his *Memorials*, toward the close of his life, he very naturally wished to make a good case for him-

¹ Sir Roundell Palmer was not absolutely exact in his report of the instructions given by Pollock, C. B. See p. 284, *supra*.

self, but the best is poor. He seems to have been afraid both of Lord Westbury and of the Chief Baron, who, though nearly eighty-one, had no scruples and a bitter tongue. Sir Roundell could only have appeared well had he shown courage and singleness of purpose. First he had to deal with the law. The decision in the *Santissima Trinidad* stood in his way, as it subsequently stood in the way of the United States at Geneva. Mr. Bancroft Davis, who represented the United States at Geneva, treated it properly. Standing alone, said he, the *Santissima Trinidad* is "at variance with common sense, and with the whole current of the action of nations." If it must be taken alone, he should ask the Tribunal to disregard it. Happily, he argued, there is no necessity to take it alone, since, at the same term, and on the next day, it was so explained and limited by Chief Justice Marshall, in the *Gran Para*,¹ that the two cases can be read together, forming, as it were, but one.² Any errors made by Justice Story on March 12, 1822, were corrected by the head of the Court on March 13.

Had Sir William Atherton lived, some such argument might have been made, for Sir William was a stiffer man than Sir Roundell, and at the jury trial resolutely refused to commit himself. Afterward I came to know Sir Roundell rather well, considering the difference in our age and rank. He was a very agreeable man, but not famous either for ingenuousness or pugnacity, especially when on the weaker side. Here he found himself in a dilemma. Lord Westbury was committed to the doctrine of *animus*. Sir Roundell did not wish to run counter to Lord Westbury, therefore he conceded the soundness of the *Santissima Trinidad*. He did not insist that the meaning of a statute on which hung peace and war could not be juggled with. He himself was always only too ready to split straws. He split straws here. He denied any international obligation to enforce municipal law. Nor did he dare, when Sir Frederick repudiated his promise to allow the Government's exceptions, and brazenly sneered at his own written words, to take the old man by the throat. He should, if he had been in earnest, have thrown up the case and reported the falsehood of the judge to Parliament for the legislature to deal with, as with an inter-

¹ 7 Wheaton, 471.

² *Case of the United States* (at Geneva), 198, 202.

national breach of faith. Nothing of all this did he even attempt. He tamely argued his cause on the basis of the *Santissima Trinidad*, thus laying himself and the Cabinet open to an outrage from Sir Frederick which was remembered and quoted both in and out of Parliament for years to come.

The result of the argument on the part of the Crown seems to be this (said Sir Frederick), A shipbuilder may build a ship altogether of a warlike character, and may arm it completely with the latest and most mischievous invention for the destruction of human beings, and may then sell it to one of two belligerents, with a perfect fitness for immediate cruising, and ready to commit hostilities the instant it is beyond the boundary of neutral territory, provided there was no previous contract or agreement for it. But if there be any contract or agreement for it, it cannot be made to order with the slightest warlike character about it, though this be part of the accustomed and usual trade of this country. . . . The means of evasion which this furnishes is obvious. A signal, a word, a gesture, may convey an order wholly incapable of being proved. It is unnecessary to dwell upon this; it is at once perfectly obvious; and the real difference between a crime and an act of commerce may, in point of evidence, entirely disappear. To use an expression borrowed from one familiar in Westminster Hall about a coach and six, a whole fleet of ships might sail through such an Act of Parliament as this, if this be the meaning of it; and we are to believe that our legislators exhausted all their wisdom in settling the language of the 7th clause, and had none remaining to perceive the enormous loop-hole which they had left.

This thrust by Sir Frederick at Sir Roundell and Lord Westbury is another instance of that social incoherence which paralyzed the aristocracy in its conflict with America. Sir Frederick was a Tory politician, and as a Tory he used this opportunity to discredit a Whig Cabinet and a Whig Chancellor. For Sir Frederick stigmatized, as dishonest, opinions which Lord Westbury was known to entertain, and which he announced from the bench in 1865 in *Ex parte Chavasse*. Nor could the attack on Lord Westbury have been accidental; for Sir Frederick paraphrased the language afterward used by the Chancellor, and this paraphrasing must have been intended for parliamentary effect. It did have a very considerable effect, as the debate a few weeks later proved. Still deep as Pollock may have cut, he cut less deep than did his associate, Baron

Bramwell, who was the only one of Pollock's three associates who sustained him. Baron Bramwell was a better lawyer than Sir Frederick, and his opinion carried more weight. He said, in substance, that setting aside all personal opinions as to the better policy to pursue in the enforcement of neutrality, he, as a judge, had only to consider the meaning of the statute, and he thought that the statute intended to render penal only the sending forth of an armed ship to participate in war. "I am aware of the consequences if this is the law. A ship may sail from a port ready to receive a warlike equipment, that equipment may leave in another vessel, and be transferred to her as soon as the neutral limit is passed, . . . and thus the spirit of international law may be violated, and the letter and spirit of the municipal Act evaded. But as the law stands, . . . I see no remedy. . . . I am aware, of course, that it would be easy to . . . make a law prohibiting the sending forth of [such] a ship. . . . Whether such a law would be desirable I do not presume to suggest." Baron Bramwell was right, it was not the function of the judges but of the Cabinet to decide "whether such a law would be desirable," and if the Cabinet honestly wished England to do her duty as a neutral, and were advised by their counsel, as they had been, that the statute was imperfect, nothing could be plainer than that an amendment "was desirable." Why Lord Palmerston and Lord Russell so obstinately declined to ask Parliament for additional legislation they never could, or at least they never would, satisfactorily explain. The only convincing explanation would have been that, as honest men themselves, they had not supposed that English judges could have resorted to flagrant equivocation to compass a political end, especially when that end involved a repudiation of solemn engagements with the Crown. But if this were their reason they could hardly have given it, in view of the vulnerability of Lord Westbury.

So far as the Chief Baron was concerned, it is not very surprising, considering the manner of man he was, that he should have been willing to go great lengths to prevent his rulings from coming before a higher English tribunal, for the character of those rulings was very shortly and very thoroughly exposed by the Scotch Court of Session.

Many of the brightest ornaments of the British bench and

bar have been Scotchmen, and the Court of Session, to say the least of it, has always stood as high as the Court of Exchequer. The Court of Session in 1864, without hesitation, unanimously swept aside the pettifogging of the Exchequer in a decision which, if it had been made in England in 1863, would have saved the nation from bitter subsequent humiliation.

On December 10, 1863, the Collector of Customs at Glasgow seized the ship *Pampero*, as the *Alexandra* had been seized, for violation of the Foreign Enlistment Act, and the Lord Advocate filed an information in which he did not allege an armament because he could not do so. On May 5, 1864, the case came up on a preliminary objection made by the claimants to the competency of evidence to prove an "equipment" in contravention of the statute, when the evidence fell short of proving an armament. Lord Ardmillan held that, "The actual arming . . . or intention to arm . . . is not necessary to the constitution of this offence. Any operation whatever in the way of equipment, tending to the fulfilment of the statutory intent," is an offence under the Act.¹

After this ruling the claimants agreed that judgment should be entered for the Crown, and the building of a Confederate navy on the Clyde ended.

Occasionally, as Mr. Gladstone said of himself, even the wisest men behave as if distraught. Mr. Seward was, unquestionably, one of the ablest ministers of Foreign Affairs which our country has produced, and yet Mr. Seward in the winter of 1863 perpetrated an act of such astounding recklessness that, as I look back upon it, I am aghast. No one in America knew so well as Seward the extreme tension in England in December, 1863; no one knew so well the pressure on Lord Russell, or the precarious tenure of power of the Cabinet. No one could appreciate, as he could appreciate, the disaster it would be to the United States should the Palmerston administration be defeated in the Commons on the issue of the seizure of the rams. And yet Mr. Seward in December, 1863, sent to Congress, appended to the President's message, not only the whole correspondence touching the rams, which he knew Earl Russell was sedulously reserving, but even those instructions of July 11 which Mr. Adams had thought so compro-

¹ *Lord Advocate v. Flemming, 2 Cases in the Court of Session, 3d Series, 1060.*

mising that he risked his reputation and his political life rather than present.

The shock in England was prodigious, coming, as it did, on the heels of the *Alexandra* scandal, and immediately before the meeting of Parliament. Mr. Seward had said bluntly what Mr. Adams had said discreetly, that England had no law for the protection of countries with whom she was at peace, therefore those countries must, at whatever risk, protect themselves, and this statement had been proved to be true by the antics of an octogenarian chief justice. As Mr. Adams wrote to Mr. Seward: "The feeling of the profession seems, on the whole, to be one of mortification at this spectacle. . . . The English are indifferent to reproach, but they sensibly feel ridicule. Proudly as they boast of the perfection of their domestic institutions, it is with no little regret that they open their eyes only to perceive so glaring an instance of their defects."¹

Nor was this all, or the worst. Englishmen now understood for the first time the position into which the Palmerston administration had brought their country. The culmination of English pride and self-complacency is marked by the appearance of Macaulay's History, and may be fixed pretty precisely as the year 1860. That period of elation lasted until the publication in Washington of this diplomatic correspondence. From the wound it then received it never recovered. Go back as far as they would Englishmen had bragged that England had never turned her back upon an enemy. Sometimes she had been defeated, it is true, but she had never been intimidated. Yet in 1864, when they came to read this diplomatic record, they learned how the most distinguished member of the great house of Russell, with his own admission before his eyes that the escape of the *Alabama* was a scandal, and with the whole world ringing with the boasts of the Confederates that with certain English-built ships they would devastate the seacoast of the Northern States, had told the American Minister on September 1 that he could not "interfere in any way with those vessels," out of respect for English law; and how, on the day after this declaration, he had seized those very ships, in defiance of law,

¹ *Adams to Seward*, April 8, 1864. Mr. Adams probably received most of his impressions touching legal opinion from Lord Wensleydale, an intimate friend. Lord Wensleydale dissented when the House of Lords dismissed the *Alexandra* appeal in 1864.

because of an intimation that hostilities must follow upon their escape.

Even so the most damaging revelations had not been disclosed. Mr. Adams himself never knew that on the day Earl Russell assured him that Gladstone's Newcastle speech did not "justify any of the inferences that had been drawn from it, of a disposition in the Government now to adopt a new policy,"¹ Lord Russell and Mr. Gladstone had jointly urged intervention, and that on that day the design had been formed to engage the French Emperor in an attempt to influence the Cabinet, after other means had failed. Nor, more humiliating still, though Englishmen might surmise, they could not yet prove, that Lord Russell held the Laird rams without trial, in the hope of starving the Lairds into making to him a sale, because his Attorney-General did not dare a second time to face Sir Frederick. It was only a year later that Lord Russell told Mr. Adams that Sir Roundell's timidity had driven the Cabinet to adopt the expedient of buying the rams, since he would not trust a jury with Pollock on the bench.

"I," Mr. Adams wrote to Seward on February 16, 1865, "remarked that I had become convinced, from the result of the last trial, that the United States could stand no chance before a jury. His Lordship said that it was in consequence of doubts of the Crown lawyers, in the case of the iron-clads, as to the possible presence of one or two advocates of the Confederates on the jury, that it had been decided to buy them up. People here now took sides, almost as vehemently on our questions, as we did ourselves."²

On February 4, the first night of the session, Parliament showed its temper. Lord Derby expressed the hope that Earl Russell had answered, in what Earl Russell afterward described as "becoming terms," Seward's instructions of July 11, touching the destruction of Confederate cruisers in English ports by the American navy. On February 9 Earl Russell, luckily for himself, was able to answer that, when the noble Earl had asked his question, he did not remember any such despatch. "I find since, that it was a despatch written by Mr. Seward to Mr. Adams, but Mr. Adams never thought proper to lay that

¹ *Adams to Seward, October 24, 1862.*

² *Adams to Seward, February 16, 1865.*

despatch before me, and therefore I was spared the difficulty and the pain of giving an appropriate answer to it."

Then the Earl of Derby pressed Earl Russell harder. "I presume," said he, "that it has now been laid before the noble Earl, because I see that a reference is made by Mr. Adams" to an answer "to several despatches, among which he includes the despatch of July 11."

Earl Russell. "I certainly do not find among the papers the despatch of July 11, and Mr. Adams informed me expressly that he had received that despatch and did not hand it to me. That being so, I should not do so useless a thing as endeavor to get up a wrangle with Mr. Adams on a despatch which was never presented."

All this disturbed Mr. Adams, but not because it injured his own standing, for it improved it. As he told Mr. Seward in a letter he wrote him on February 11: "The effect is to raise my action in the British estimation rather more than it deserves, or I altogether relish;" for he did not "relish" having his reputation raised at the expense of his friends and more especially of his chief. All England saw that the United States had won a magnificent victory, and men paused in their astonishment, not knowing at which to wonder most, the victory itself or the skill of the champion. Lord Derby, who was the head of the Conservative party, may be supposed to have fairly expressed British educated opinion, and Lord Derby, in the debate, went far. "I think Mr. Adams took upon himself a grave responsibility — a very grave one it was — in not presenting it [Mr. Seward's instructions of July 11]; and I think that in so doing he acted as a friend of peace and a friend of the good relations between the two countries. I think it required no small degree of moral courage to take the course he did, and that he did good service to both countries by withholding the despatch. . . . And here I must observe that, in all the communications which it has been his duty to make to the noble Earl, Mr. Adams has acquitted himself with the strictest courtesy, and acted as well, under the circumstances, as it was possible to do."¹

Then Lord Derby went on to describe the magnitude of the

¹ Hansard, Third Series, CLXXXIII. 429, 430. Lord Derby in the debate of February 11, 1864.

American triumph. Having summed up the sequence of the correspondence which culminated in Lord Russell's despatch of September 1, refusing to interfere, of Mr. Adams' despatch of September 3, intimating that the escape of the rams must mean war, but suppressing the July instructions, and of Lord Russell's answer of September 4, stating that the determination not to interfere was under reconsideration, Lord Derby continued:

"I defy anyone, even the least prejudiced, not to infer from it [the volume issued by the State Department] a great triumph to the diplomacy of the United States, and that the British Government had given to intimidation and menace that which they would not yield to a sense of justice."¹

Mr. Adams was surprised at the effect which the publication of the correspondence in England had upon his personal position. From this time forward he stood quite apart. He commented upon the phenomenon with some wonder in his diary. He could see nothing so very remarkable in a minister, entrusted with a negotiation of supreme importance, taking the responsibility of temporarily withholding a despatch which he thought likely to be injurious, even if by so doing he risked reprimand himself. He knew, he noted, that he had been calm throughout, and undisturbed by doubts touching his duty; and this was how he always impressed me. He had something nearly approaching a perfect poise of mind.

When, however, on reading the debates in Parliament, he perceived that Lord Derby and the opposition generally were inclined to use him as foil by which to discredit both Mr. Seward and Earl Russell, he determined to set himself right. He wrote to Mr. Seward that nothing could be "more unsafe to a diplomatic agent than an approach to a false position between two Governments;" and he then pointed out, as gently as he could, how narrow the margin had been between success and ruin, and how trifling an error might still work disaster:

"The publication of the diplomatic papers annexed to the President's message has elicited much comment in Parliament and in the newspapers, upon your instructions to me, . . . particularly that portion of them which declared the

¹ *Hansard, Third Series, CLXXIII. 432.*

intention of the Government, under certain contingencies, to enter English ports and seize obnoxious vessels."

He then explained that he had not intended to suppress those instructions altogether, but to reserve them as a last resource, when the British should have made their final answer declining to stop the rams.

But when that moment arrived, which was on the reception of Lord Russell's note of the 1st of September, I felt so fearful that the declaration of that intention would close all further possibility of preserving the peace between the two countries, that I preferred to take the other course indicated in my reply of the 5th, which was, while intimating the strong character of my instructions, to propose to await new ones adapted to the precise emergency rather than to declare them. As matters actually turned, this proceeding seems to have been fortunate; for while the general statement in my note left on this Government the impression that war might be the alternative in contemplation, the language took no such specific shape as to compel it to resent it as a threat.¹

It is only justice to both Mr. Seward and Lord Russell to say that neither bore malice for anything that had occurred. Lord Russell was as cordial to my father as ever, and Mr. Seward behaved in the handsomest manner. When he understood that "British statesmen whose opinions the President would be the last to undervalue, have declared that in their judgment portions of that communication are disrespectful and menacing toward Her Majesty's Government," he instructed Mr. Adams to refer the paper "to Earl Russell's own criticism, with the request that whatever expressions contained in it he shall consider exceptionable be deemed to be hereby withdrawn." He added expressions of regret that any words had been used which might be taken as matter of offence.²

This atonement for an indiscretion did not, however, reach London until long after the moment had passed which Mr. Adams had anticipated as being likely to determine the fate of the ministry. The crisis came in the House of Commons, nominally on a motion for the communication of this correspondence to Parliament, but the debate took such a form that

¹ *Adams to Seward*, February 11, 1864.

² *Seward to Adams*, March 2, 1864.

the division was tantamount to a vote on a motion to censure. If it had been carried, the ministry must have resigned.

As presented to Great Britain the matter in dispute had now risen to a level above ordinary party differences. A question was to be settled which touched the very foundation of English society, as English society was then organized, and the emotion was correspondingly profound. The aristocracy had broken down in a policy of aggression, and now the ministers who represented that aristocracy appealed to the exponents of democracy, like Bright, Cobden, and Forster, for support. They carried the House; but only by defections from the ranks of those who normally should have voted to remove them and fill their places with more resolute men. How the handful of men who turned the scale would have voted had Seward's instructions of July 11 been delivered, can only be conjectured.

On the night of February 23, 1864, Mr. Seymour Fitzgerald,¹ member for Horsham, moved for copies of all the papers relating to the Laird rams which were in the possession of the Government, and thereupon a debate arose which lawyers of the last generation long remembered both for its ability and its acrimony. Mr. Fitzgerald asked how it came that Earl Russell, having declined to interfere with the rams for lack of evidence down to September 3, 1863, stopped them on September 4, with nothing new against them save one or two depositions, described by Mr. Adams as "of no great additional weight."

What passed to lead to this sudden change of opinion on the part of the noble Earl? That has been answered by a despatch from Mr. Adams himself [to Mr. Seward] . . . dated September 8, 1863. It states that — "At the last moment on Saturday, I sent a despatch [from Earl Russell] . . . just then put into my hands, signifying that the decision of the Government announced in his previous note of the 1st instant had, under the effect of my notes on the 3d instant, been subjected to *reconsideration*." There, Sir, is the secret of the whole matter. The real truth is, that, while using language milder than that of the officials at Washington, Mr. Adams had yet used language so forcible as almost to be menacing, and in his despatch of the 3d September, couched in the most temperate lan-

¹ William Robert Seymour Vesey (1818-1885), son of William, second baron Fitzgerald, Under Secretary of State for Foreign Affairs under Lord Derby, 1858-1859; governor of Bombay, 1866. The debate is reported in Hansard, Third Series, CLXXIII. 955-1021.

guage, the American minister pointed out distinctly that the event of the rams leaving the Mersey and inflicting injury on American commerce would infallibly lead to a war between this country and the United States. (Hear, hear, from ministerial benches.) I scarcely know what honorable gentlemen are cheering at when the statement I make is this, that the Government, without having any legal authority, and having stated that they had no legal authority to stop these rams, yet under the pressure of a menace held out that war would ensue if they did not stop them, proceeded to take that course. (Mr. Dunlop: Hear, hear.) Is that the statement which the honourable member cheers? Is it that we should have a Government who, having themselves announced that they had no legal authority for the act, yet in spite of the law seized the property of a British subject, because they were told by the representative of another power, that if they did not do so consequences would be serious? . . . I can say, with truth, that there is no man who would more deprecate any difference or hostility between this country and the United States than myself. . . . But if I am to be told that the English Government, in order to avoid such a war, is to transgress the law and seize the property of a British subject without any justification, then I say that I will never approve the conduct of a minister who would take such a course; but, on the contrary, am prepared to accept any consequences [rather] than pursue such a line of policy.

It fell, of course, to Sir Roundell Palmer, the legal adviser of the ministry, to answer Mr. Fitzgerald, and Sir Roundell's speech was exceedingly characteristic, and might be called amusingly disingenuous. At least Sir Hugh Cairns thought it so. Sir Roundell first protested that it was unheard of to ask a Government to print its evidence in advance of a prosecution, although in truth it had no evidence against the Lairds, better or stronger than that contained in Mr. Adams' despatches, and the depositions annexed. He then went on to repel the accusation that the Government had yielded to menace, as Lord Derby had charged.

On the whole, (said Sir Roundell,) it did not appear to the Government proper then [prior to September 1] to treat the vessels as liable to confiscation. That decision was announced to Mr. Adams on the 1st of September. It is said, however, that Mr. Adams, on the 3d of September, repeated his instances, and that on the 4th an order was given to detain these vessels, or to prevent them from

leaving the port of Liverpool. That order, however, was not the result of a decision adopted by the Government after the receipt of Mr. Adams' letter of the 3d of September, but, as stated in another place, of a decision arrived at previously. The Honorable Gentleman asks whether any new information reached Earl Russell in the meantime. That is just the one thing contained in the papers . . . which we do not mean to tell him, but he may be sure that the Government had grounds for what they did.

As everybody knows now, on September 4, Earl Russell had nothing before him save the note of September 3, which had not been before him when he sent his note of September 1, nor anything of material importance which had not been before Sir Roundell when he gave his opinion of August 22, on which Earl Russell's note of September 1 was founded. What had happened was that by September 3 the pressure on Earl Russell had reached the point at which he was, as it were, thrust forward, and, ignoring Sir Roundell, seized the rams regardless of law. Sir Roundell, very naturally, did not care to enter into this; so, sliding over details, he advanced to the seizure, which he candidly admitted to be legally indefensible. "The Honorable Gentleman asks what right the Government had to detain the ships (Mr. Seymour Fitzgerald: Hear, hear!) The Honorable Gentleman cries 'hear'; but I do not hesitate to say boldly, and in the face of the country, that the Government, on their own responsibility, detained them."

On the merits of his case Sir Roundell had made fatal admissions, and Sir Hugh Cairns, who was a much stronger lawyer than Sir Roundell, impaled him without mercy on the dilemma he presented:

I find that Earl Russell on the 27th of March last, . . . said that he wished the United States Government to understand that he considered the case of the *Alabama* and the *Oreto* to be a scandal. . . . What did Earl Russell mean by saying that the case of the *Alabama* and the *Oreto* was a scandal? Did he mean that it was a scandal because, having laws to punish such a case, we did not enforce them? The Under Secretary of State shakes his head at this. Well, then, did Earl Russell mean that it was a scandal that we had no laws to punish such cases? He must have meant one of these two things. . . . Now, let us suppose that the noble Lord thought the case of the *Alabama* and the *Oreto* was a scandal because

that, having laws to punish, they were not put in force. Then . . . I want to know this . . . why did not the Government indict the persons who admitted openly that they had sent the *Alabama* out of the country? . . . If the noble Earl meant that it was a scandal because, having laws, those laws were not enforced, I want to know why the Government has not put them into force? . . .

Now let us take the other branch of the dilemma. Did the noble Earl mean that the case was a scandal, because we had not a better law to deal with the cases of the *Alabama* and the *Oreto*? Then, I ask, why have not the Government . . . proposed an alteration of the law? . . . Then, again, we have upon the very same day, a declaration from the noble Lord at the head of the Government. While the noble Earl was sending off his despatch to the Government of the United States, the noble Lord [Palmerston] said in this House, as to any alteration of our law: "I do hope and trust that the people and Government of the United States will believe that we are doing our best in every case to execute that law; but they must not imagine that any cry which may be raised will induce us to come down to this House with a proposal to alter the law. We have had — I have had — some experience of what any attempt of that sort may be expected to lead to, and I think there are several gentlemen sitting on this bench who would not be disposed, if I were so inclined myself, to concur in any such proposition." . . .

We are told that these words of the noble Earl [reproach and scandal] . . . were referred to elsewhere, and the noble Earl was asked to explain them. The noble Earl explained them in this way. He said in substance: "I adhere to the opinion, and my reason is this: How can you describe in any other words an act of Parliament as to which the chief of one of our courts of law has said, 'You might sail a fleet of ships through it'?" . . . Will the House believe it possible that the noble Earl could have fallen into the error I am going to expose? What that very eminent and learned person said was this:

"If I were to adopt the construction which the Crown desires to put upon the Foreign Enlistment Act, which I do not adopt, which I reprobate as false and erroneous, then, indeed, you might not drive a coach and six, but might sail a fleet of ships through the act of Parliament." . . .

We have had another confession from the Government to-night. . . . They send down an officer of the Admiralty to deal with the owners for the sale of their ships. I was quite amused at the manner in which the Attorney-General [Sir Roundell Palmer] dealt with this. He said, "Well, it was a very kind thing, a very humane thing."

. . . I want the Attorney-General to tell me what does he think of dealing with a man around whose neck the Government has got the fangs and talons of the revenue officers. . . . Was that fair dealing? Was that a seller and buyer . . . on an even footing? The Government with its hands upon the ships, . . . saying to the builder, "Come, now, sell us these ships; let us buy them of you." But what is the climax? The climax is this: The month of February comes at last. Parliament meets, and the information can no longer be delayed. It must be filed, and then we have the last letter from the Treasury to Messrs. Laird, which I hope the House will have printed for its perusal in the papers about to be produced. . . .

(*Immediate*)

TREASURY CHAMBERS, February 8, 1864.

GENTLEMEN,—In reply to your letter of the 3rd instant, I am commanded . . . to acquaint you that . . . an information in the case of the iron-clads vessels built by you, and now under seizure by Her Majesty's Government, will be filed in a few days, and that it may be necessary to send a commission, abroad for the purpose of collecting evidence.

GEORGE A. HAMILTON.

Messrs. Laird Brothers.

Collecting evidence! The seizure, according to the Government could only be made upon evidence, and four months after the seizure the Government are going to collect evidence abroad. Sir, we have not got many papers from the Government this year, but I trust the House will insist upon the production of these.

Among the bitter speeches of that night, the bitterest was Lord Robert Cecil's, he who afterward became famous as the Marquis of Salisbury.

I should not address the House, said he, if I saw any inclination among the honourable gentlemen opposite to rise, but they will not, as in the refusal of information and the absence of discussion lie perhaps their only means of safety.

The Honourable and Learned Gentleman [Sir Roundell Palmer] spoke of the language of Mr. Adams as only slightly passing the bounds of moderation. Perhaps he might admit that Mr. Adams' own language warranted that description; but Mr. Adams was the representative of a foreign Government, and that Government had used language to which the designation . . . was scarcely applicable. What of Mr. Seward's despatch of the 11th of July? . . . Mr. Seward's language was as follows:

"Can it be an occasion for either surprise or complaint that, if this condition of things is to remain and receive the deliberate sanction

of the British Government, the navy of the United States will receive instructions to pursue these enemies into the ports which thus, in violation of the law of nations and the obligations of neutrality, become harbors for the pirates. The President very distinctly perceives the risks and hazards which a naval conflict thus maintained will bring to . . . the two countries. But . . . if, through the necessary employment of all our means of national defence, such a partial war shall become a general one between the two nations, the President thinks that the responsibility for that painful result will not fall upon the United States."

That was a distinct threat of war. . . . What he wanted to impress on the House was, that throughout these proceedings there had been a threat of war on the part of the United States. The Government had failed to obtain from courts of law and from British juries that application of the law which it desired, and consequently the only course that was open to it . . . was to procure the utmost possible delay. . . . They were threatened by the United States; they knew they were unable to obtain a decision in their favor in the courts of law; after the threats which had been made by the United States they did not dare to come to the House of Commons for an alteration of the law. What were they to do? The only course open to them was to lengthen out the proceedings to the greatest possible extent. . . . But that was not the most important part of the speech of the Honorable and Learned Gentleman. We had had a distinct avowal that the Government had broken the law. The Honorable and Learned Gentleman had acknowledged that, upon their own responsibility, without any authority from the law, they had ventured to stop vessels which had a legal right to leave the country. Now, it seemed to him that it would be an evil day in our history when it was recorded that the Government, under threats of war from a foreign power, . . . had broken through every right which the subject possessed, . . . had seized his property in violation of the law, and that then Parliament had taken no notice whatever of such an illegality. . . . Was there any other period of our history at which such an act would have been permitted? Was there any other period at which it would have been endured that the Government should violate the rights of the subject in deference to a foreign power, and yet that Parliament should take no notice of the matter? . . .

They had been accused of being the "most docile" House of Commons that ever existed, of "sneaking to their places," of allowing ministers to do what they pleased. They should really merit that charge . . . if they quietly received the threats of a foreign power,

if they permitted ministers to use all the delay and procrastination of the law for the purpose of crushing the subject, if they allowed Her Majesty's Government to break the law, and if they suffered them at the same time to avow that they did it on behalf of those who had addressed to them threats of war.

Every one of these charges made by the opposition against Lord Palmerston's administration was not only true, but was admitted to be true, and had they stood alone, they would have ruined any body of public men who had held office in England since the accession of William III. But they did not stand alone; the great question loomed behind, whether the opposition dared to take office on the issue of liberating the rams. That question was put by Mr. Forster, and it was answered in the negative.

Any honourable gentleman who was in the habit of watching the news which came from America would be aware that for months previous to the detention of these rams a fear was expressed in the North, and a hope in the South, that they would issue forth; and that being so, and the Government having reason to believe that the rams were intended for the Confederate Government, they took upon themselves the responsibility of detaining them. . . . Well, then, if the noble Lord or Honourable gentlemen opposite thought that the Government deserved a vote of censure for so doing, let them boldly propose such a vote, and say that they would not have done the same thing. . . . The noble Lord seemed to think lightly of a war with America; but that was not the feeling of the country, nor did he believe it could be the feeling of the opposition generally.

The certainty of war should the rams be allowed to sail — that was all the defence Earl Russell had to allege in answer to some of the gravest accusations which had been made against any minister of the Crown since the Revolution of 1688. In 1861 a series of questions had arisen touching to the quick the national honor and the national good faith. After mature reflection the Palmerston Cabinet, speaking through their official organ, Sir Roundell Palmer, then Solicitor-General, had, on March 27, 1863, expounded their view of the law to Parliament in these words: "The United States Government have no right to complain of the Act in question; the Foreign Enlistment Act is enforced in the way in which the English laws

are usually enforced against English subjects." Afterward the Government had tested the law and, according to Sir Roun-dell Palmer, the courts had held it to be lawful for English subjects to build and send abroad such vessels as the rams, provided they disguised their purpose to sell to a belligerent under certain transparent subterfuges. Eminent counsel had given the Lairds similar advice, acting on which the Lairds had built these rams, apparently lawfully, and when they were ready to sail the Government had seized them, without color of law, and had held them by military force, without a trial, and without even specifying grounds of complaint.

"I suppose," said Sir Hugh Cairns, "I am not going too far in saying that if any but a large and well-established house with great resources had been subjected to an occurrence of this kind, it must have occasioned its ruin." And the seizure had not been made with the honest purpose of bringing those ships to trial, that was implicitly admitted, but with the purpose of forcing the owners into selling their property because they could not hold it until their title could be determined by a court. "Surely," said Sir Hugh, "in a case of this sort, . . . where the property was of the value of nearly a quarter of a million of money, . . . surely it was the duty of the Government, . . . to use promptitude and despatch to bring the case to trial. Well, now, will the House believe it, that from the 9th day of October until the 8th day of February, which is exactly four months, not a single step was taken, no information was filed in the Exchequer; and I do not think I am going too far when I say that if this House had not assembled a very few days before that time [February 4], the information would not have been filed to this day?"

Upon such premises it was impossible to refute Sir Hugh's conclusion. "The seizure of these vessels, . . . raises constitutional questions of as great importance — I say so deliberately — as were ever brought before this House. I speak with full consciousness of the gravity of the expressions I use, when I charge the Government — let there be no mistake — I charge the Government with having done, and after hearing the Attorney-General to-night, I say having done, on their own confession, what was illegal and unconstitutional, without law, without justification, and without excuse."

Thomas Baring was the most eminent of the Conservatives who voted against their party. Probably there were not half a dozen men on that side of the House who exceeded him in influence. Born in 1799, he had sat in Parliament since 1835, continuously, except between the years 1837 and 1844. He had been offered the Chancellorship of the Exchequer in Lord Derby's administrations of 1852 and 1858, and was beside not only the head of one of the first banking houses in the world, but was one of the most prominent men socially in London. He, for all intents and purposes, closed the debate in these words: "This I would say in conclusion, that if the speeches of my Right Honorable friend and the Honorable and learned member for Belfast [Sir Hugh Cairns] are to be taken as furnishing the grounds on which we are to divide tonight, they seem to me to have arrived, by simply moving for these papers, at a most lame and impotent conclusion. Why do not they at once move a vote of censure on the Government, or on the Law Officers of the Crown for the course which they have pursued? For my own part, I offer to the noble Lord, the Foreign Secretary, and to those Gentlemen by whom he is advised in those matters, although I think they are open to grave censure for not having prevented the departure of the *Alabama*, my thanks for their conduct on this occasion." With that speech the motion died. As Mr. Adams said, Thomas Baring had demolished Lord Derby's "castle of cards."

I doubt if an issue involving the stability of their class has ever been presented more lucidly to an aristocracy within a legislative chamber where they controlled, and if, on such an issue coming to a vote, an aristocracy ever before so quietly and so, apparently, voluntarily abdicated. Sometimes there has been an appeal, as, in the case of the Reform Bill, to an election, but more frequently to arms.

When the American Civil War broke out in 1861, the British aristocracy decided to sever the American Union to strengthen themselves. As the conflict deepened, they perceived that to sever the Union the blockade of the South by the North must be raised. Not daring to raise the blockade with the British navy, because of fear of British democracy, the aristocracy undertook to build and deliver a navy to the South. They built the ships, but, when it came to delivering them, they

flinched before the North, even though to effect a delivery they had prostituted their judges and degraded their courts.

Then the minister who flinched turned upon the subject who was only exercising his rights, as those rights had been defined by the judges to whom the aristocracy had appealed, and took from him his property by military force. The aristocracy had to determine whether they would remove that minister who had betrayed them, and substitute another to carry out their policy to the end, or whether they would capitulate. They voted by a majority of twenty-five to capitulate, and the majority was not partisan.

I take my father to have been the profoundest observer of British society of any foreigner of his time, and from the 4th of February, when he had heard Lord Derby question Lord Russell on the opening night of the session, he had anticipated some such result. Lord Derby, in his opinion, did not rise to the level of the emergency. He was not eager to fight the issue to the end. On February 25 Mr. Adams wrote to tell Mr. Seward, that the opposition had gathered courage enough to worry the Government on its foreign policy, but that it was not ready to take office and reverse it. "It does not appear that they are prepared with any different measures. The struggle looks more like a trial of strength in view of future operations. On this issue the division is not strictly a party one. The majority is greater than the strength of the ministry could command."¹

And yet the balance hung so even that it seemed that a hair might incline it to either side. The danger was weakness; that war might result from the impotence of the power which temporarily held it in check. Six weeks later Mr. Adams wrote again: I "earnestly hope that our efforts" in the field "may be crowned with success, otherwise it is much to be apprehended that the causes of offence may be accumulated to such an extent on this side as to render escape from a conflict almost impossible. Nothing will keep down the malevolent spirit that pervades the higher classes, but the conviction that there is no hope left of effecting a permanent disruption of the United States."²

¹ *Adams to Seward*, February 25, 1864.

² *Adams to Seward*, April 4, 1864.

Probably he was right in this forecast, as he usually was right in his forecasts when in England. Lord Palmerston's Government could not have held the rams much longer without trial, and to try them would have involved great risk. Ministers were, even when Mr. Adams wrote, casting about for some means of controlling Pollock, but the chances were not promising that such an Attorney-General as Sir Roundell would succeed in coercing the Chief Baron, especially when sitting with a Liverpool jury. With a verdict against the Crown, the danger would have been acute. The knot was cut, as Mr. Adams thought that it must ultimately be cut, by the collapse of the South. The blockade had done its work. The Confederacy was already financially exhausted, and when Grant and Sherman were beginning their last advance nothing could be spared from home defence for the purpose of sustaining what had become speculative investments abroad. As early as February 14, 1864, the Lairds showed signs of distress. Through Bravay they intimated a willingness to sell for £300,000. This was an attempt to extort money from the Ministry, before the debate. After the debate the price of the rams rapidly fell, and on May 26, 1864, they were finally bought by the Admiralty for £195,000 down and £25,000 more contingent upon their satisfactory completion.

Looked at from the standpoint of American history, purely, the debate in the House of Commons, on February 23, 1864, and the division which closed the debate, are memorable, but they have beside a larger significance. After Waterloo England became the heart of modern civilization, the centre of the world's economic system, and as such she wielded, until February, 1864, a supremacy which was, in substance, unquestioned. On that night she abdicated, and her supremacy has never returned. That act, which indicated a change in the economic and military equilibrium of mankind at large, indicated a still profounder change in the social status at home. The action of the House marked the rise of new social forces, the advent of a new ruling class. The next step was broader enfranchisement, and the formation of a radical Cabinet with Mr. Gladstone at its head. The type of English aristocrat represented by Lord Palmerston had been discarded.

Whatever may have been the failings of this elder type of

man it had never been backward in fight, and if England had won supremacy she had paid for it with her blood. The proof that the species was decaying is that the United States succeeded in swaying England by an apparent readiness for war, when she had, in fact, little or no physical force at command. Nor did this failure of English martial energy manifest itself in relation to America alone.

As on the western continent a consolidated democratic republic appeared to be rising on the ruin of a slave-holding oligarchy, so in central Europe the fragments of Germany showed signs of cohering in what promised to be a threatening military empire. In February, 1864, the Prussians and Austrians began to dismember Denmark by occupying Schleswig. In the dismemberment of Denmark, England had a substantial interest, for the absorption of the duchies would give to Prussia not only a deep-water harbor on the Baltic but the possession of a canal route to the North Sea. This would make it possible for Prussia to become a considerable maritime power; and yet Great Britain's stake in the centralization of Germany was trivial compared to her stake in the American Civil War.

From the outset all Englishmen intuitively perceived that the social equilibrium of English society must be determined by the victory of freedom or of slavery in the West. Power in England hinged on the restriction or the extension of the suffrage. Hitherto, speaking broadly, the landed gentry had predominated, but, if the franchise were to be extended widely, none could tell whither power might migrate. Certainly it would not remain with those who then enjoyed it. Therefore the aristocracy and the proletariat took sides passionately, the aristocracy assuming that if the South should prevail the enfranchisement of the proletariat might be indefinitely postponed, the proletariat accepting it as an axiom that their fortunes were bound up with the fortunes of the North. On February 23, 1864, the aristocracy admitted defeat and formally recorded their surrender. And so rapid had been the progress of their decay that they surrendered to an ultimatum which two years before would certainly have provoked only defiance. They surrendered because their ally, the South, had collapsed. During the American conflict the vitality of the English aristocracy had run to its lees, so that when the Danish difficulty began other social

forces predominated; but of this profound movement Lord Palmerston and Lord Russell were only very imperfectly conscious. Mr. Gladstone, on the contrary, had received a powerful stimulant from his experiment at Newcastle. As Lord Palmerston remained reactionary, favoring war and opposing the extension of the suffrage, so, conversely, Mr. Gladstone, as soon as an opportunity offered after the surrender of February 23, 1864, plunged into the gulf on whose brink he had been shivering. On May 11, 1864, he unexpectedly propounded the dogma, in the House of Commons, that every male British subject, of full age, and under no "personal unfitness, had a moral right" to vote. Gladstone pretended to be surprised at the sensation which followed, and ascribed it to a change in his "hearers and in the public mind"; but Lord Morley has likened his words to a "thunderbolt." At all events they agitated the gentry; and Lord Palmerston, who incarnated the spirit of the gentry, wrote to Gladstone that he had offended "all persons who value the maintenance of our institutions."

This speech on the suffrage marked the dividing line between Gladstone the conservative and high churchman, who had represented the University of Oxford, and Gladstone the radical and latitudinarian, who disestablished the Irish Church, advocated "home rule" and who sat for Midlothian. In the first encounter after his conversion, Mr. Gladstone completely routed Lord Palmerston. Almost while Mr. Gladstone was declaring himself a radical in the House, Lord Palmerston, without consulting his colleagues, told Count Apponyi, the Austrian minister, that, should Austria send a fleet to the Baltic, he would order a stronger one thither from England, or resign his office. Very possibly Lord Palmerston may have meant what he said when he threatened to resign, but he loved office too well to make his threat good, when put to the test. When Lord Palmerston presented his proposition to his cabinet, he found Mr. Gladstone in full control. Mr. Gladstone, as a radical, would listen to no suggestion of war, nor, as he said himself, would he "recognize in any way the title of the Prime Minister to bind us" to a policy. Lord Morley has described what occurred at the meeting.

Palmerston and Russell were for war, even though it would be war single-handed. . . . They bemoaned to one another the ti-

midity of their colleagues, and half-mournfully contrasted the convenient ciphers that filled the Cabinets of Pitt and Peel, with the number of able men with independent opinions in their own administration. The Prime Minister, as I have heard from one who was present, held his head down while the talk proceeded, and then at last looking up said in a neutral voice, "I think the Cabinet is against war."¹

Lord Palmerston saw clearly where all this tended. One day he said to Lord Shaftesbury, "Gladstone will soon have it all his own way; and, whenever he gets my place, we shall have strange doings." Lord Palmerston tried to make Gladstone's seat for the University of Oxford secure, because "he is a dangerous man; keep him in Oxford and he is partially muzzled; but send him elsewhere, and he will run wild."²

On June 27, 1865, Lord Russell admitted in the House of Lords that his negotiations had broken down and that Denmark must be abandoned. This avowal was followed by an explosion of shame and indignation at the pusillanimous conduct of England who, having encouraged Denmark to resist, deserted her at the approach of danger. Motions of censure were made in both Houses. That in the Lords was carried by nine votes. In the Commons the debate fell on July 5, and Mr. Adams, who attended the debate, has noted in his diary that Mr. Cobden told him how Lord Palmerston had favored sending the fleet to the last, and had only given way when assured by Mr. Brand, the whipper in, that, on sounding the party, he had found so many members to be convinced that their constituents would not support war, that Palmerston would be badly beaten on a division if he persevered. Although not a voice was raised in defence of Earl Russell, this retreat saved the Ministry for another year, but only because Lord Derby and the Tories were too feeble and too timid to assume responsibility. Therefore Lord Russell continued at the Foreign Office, and he so embroiled Great Britain with the United States, on the issue of the settlement of the *Alabama Claims*, that he nearly succeeded in making arbitration impossible.

The inevitable result followed. On July 6, 1865, Parliament was dissolved, and Mr. Gladstone, who had represented the

¹ Morley, *Life of Gladstone*, II. 117, 118.

² Hodder, *Life and Work of the Earl of Shaftesbury*, III. 187, 188.

University of Oxford for eighteen years, was defeated. He found another seat in Lancashire, near his new friends, Bright and Forster. As he told his future constituents, he came among them "unmuzzled"; and perhaps for that reason he was so suspected even there that he stood third on the poll, with two Tories above him. The country returned a House of Commons with a majority of eighty, nominally pledged to support Lord Palmerston, but Lord Palmerston died in October, and even had he lived, he could not have stayed the democratic tide which surged onward after Appomattox. Obeying that mysterious impulsion which often, in moments of emergency, guides a cabinet more truly than it guides a popular assembly, Lord Russell and Mr. Gladstone brought in a moderate Reform Bill, but they were opposed and finally beaten by the gentry, among their party, of the stripe of Lord Palmerston. Plainly, the existing constituencies no longer reflected the energy of the nation. Mr. Robert Lowe, who had held office under Lord Palmerston, led the Whig opposition to reform, and between him and Mr. Gladstone the contest waxed hot. One day Lowe asked a question putting the issue with a bluntness which, though successful in the House, roused resentment among the disfranchised. "If," said he, "you wanted venality, ignorance, drunkenness — if you wanted impulsive, unreflecting, violent people — where do you look for them? Do you go to the top or to the bottom?" Gladstone retorted that there were those who, when they computed an addition to the electorate, regarded it as they might an invading army, but these prospective voters "are our own fellow subjects, . . . our own flesh and blood," men "who have been lauded to the skies for their good conduct." So Gladstone became the popular hero, overtopping even Bright. A few weeks after, during the Reform riots, the mob flocked to his house, shouting for Gladstone and liberty, and the police had to beg Mrs. Gladstone, who happened to be alone, to show herself on the balcony in order to induce the multitude to disperse. At last Mr. Gladstone had fairly hit his mark, and yet Mr. Gladstone with all his popularity could not move an unin-timidated Palmerstonian House of Commons. Mr. Robert Lowe, who should have followed him, beat him at every point. According to Mr. Gladstone, Mr. Lowe "supplied the whole brains of the opposition," and "had such a command of the House as

had never in my recollection been surpassed." Finally, on June 26, Lord Russell's Ministry resigned, Lord Derby and the Tories succeeded, and Mr. Lowe, as Lord Morley has said, "believed for the moment that he had really slain the horrid Demogorgon."¹ His exultation was short-lived. When it appeared that Parliament was opposed to enfranchisement, agitation began. On July 22, 1866, the radicals called a meeting in Hyde Park. The Government forbade the meeting, and sent what police they could muster to hold the gates. A vast multitude assembled, threw down the railings, and swept the police aside. No attempt was made to clear the Park, nor, probably, could the Park have been cleared by any military force the Government had at hand. Mr. Adams walked to the Park next day, and was deeply impressed. The grass was brown as if by fire, "and the crowd looking on and enjoying the spectacle were certainly not of the class which ordinarily frequents the region. It was the first growl of reform. The rising for a moment to the surface of that fearful beast which ordinarily lies hidden far down at the bottom. The remarkable part of the spectacle was the order and quiet generally preserved." One growl was enough. Liberals and Conservatives combined to give all that was asked and more, and then, while Mr. Disraeli nominally led the House, Mr. Gladstone and Mr. Bright from the opposition benches dictated to him how he should frame his statute. The aristocracy were thoroughly cowed. Lord Morley has told the story of that session:

The process effecting this wide extension of political power to immense classes hitherto without it, was in every way extraordinary. The great reform was carried by a Parliament elected to support Lord Palmerston, and Lord Palmerston detested reform. It was carried by a Government in a decided minority. It was carried by a minister [Disraeli] and by a leader of opposition [Gladstone], neither of whom was at the time in the full confidence of his party. Finally it was carried by a House of Commons that the year before had, in effect, rejected a measure for the admission of only 400,000 new voters, while the measure to which it now assented added almost a million voters to the electorate.²

So far as it goes, Lord Morley's account of this Parliament is admirable and yet he has omitted what is, to Americans, the

¹ Morley, *Life of Gladstone*, II. 205.

² *Ib.* II. 226.

most interesting phenomenon of all. He has not pointed out, what nevertheless is true, that the proletariat won enfranchisement when their pressure combined with the pressure of the United States prevented the censure of Lord Russell, by the House of Commons, for the seizure of the Laird Rams. These are the facts, as I understand them, which, when arranged in due relation to each other, elucidate the scope of the work that Mr. Adams did during the first period of his public service abroad. I have now only to sum up concisely the conclusions which I conceive follow from these premises.

For just one hundred years prior to the election of Abraham Lincoln to the presidency, the aristocratic principle in England had been striving to subdue the democratic principle in America, and to that end had fought two wars from which democracy had escaped, as it were, by a miracle. In large part democracy in America had been saved by means of a union with a slaveholding oligarchy, a union which would have been impossible under pressure less severe. Suddenly the bond, designed to fuse these discordant elements in a single organism, burst asunder and, in 1861, the North found herself hemmed in between the slave-holding and the British aristocracies, which were natural allies. To conquer the South, were the South unaided by England, strained the North to the limit of endurance. She gradually massed eight hundred thousand fighting men on the Southern fields of battle, but when she had done this she left herself without fleet or army to resist a foreign foe. Therefore she had to confide the defence of her Atlantic coast, facing England, to her diplomats, for other defenders she had none. The problem presented to these men was intellectual and not dynamical. It was the restraint of England by an idea, for if Great Britain should once join the South, nothing could save the North from overthrow.

Desperate as the situation seemed at first to the two statesmen, who were in charge in Washington and London, they presently perceived one path to safety. They might be able to bring the disfranchised and discontented classes of Great Britain to support the North in such wise as to paralyze Lord Palmerston's Government, provided their adversary could find no such occasion against them as would incense the whole British people. Indeed the English aristocracy somewhat

resembled an angry snake, relatively harmless until coiled, but deadly if permitted to gather itself. With infinite patience, skill and courage, Mr. Seward and Mr. Adams addressed themselves to their task, changing their tactics to meet the varying stratagems of their adversary as he saw his feints successively foiled, but always pressing him as strongly as they dared. Thus they passed from the passive flexibility by which they eluded the peril of the *Trent*, to the stern but measured onset by which they forced the seizure of the rams. Finally the aristocracy, unable to consolidate its forces, capitulated. The vote of the Commons on February 23, 1864, marks an epoch in civilization.

As in my age I meditate upon the scenes I saw in my youth, as I ponder upon the disparity between the bleeding North and the exultant England of my boyhood, as I recall the ferocity of the passions which once seethed about me and consider the magnitude of the interests which were then at stake, and as in the midst of these memories I pause to reflect that during those harassing years a single moment of weakness, a single error of judgment, must have precipitated the fatal catastrophe, I realize at last that I shall search the records of modern diplomacy in vain for such another masterpiece.

Mr. WINSLOW WARREN read a portion of a letter from Samuel Alleyne Otis to James Warren. The letter is as follows:

NEW YORK, April 26th [or 24th], 1788.

DEAR SIR, — Your favor 23d March have before me, and attributing your silence to the pressure of public business, without suspecting a want of attention from you, anticipated your apology. Last evening recd. also yours 13th Instant; and to both shall make the necessary reply. Elections were under the first article. Upon which did I not recollect some striking instances of their precarious nature I should feel a greater disappointment. By what I can learn there does not appear to be a choice of L. Govr. by the people; of course the same ground is to be traversed in General Court. Mr. H. carries all before him, and altho I supposed he would be elected, I had great expectation, from what you observed, that his competitor would have stood higher. The sale to Messrs. Gorham & Phelps is estimated by some of my friends as an advantageous one. I confess, if they are so obligated as to make the payments sure and punctual, it appears to be a good sale; under all circumstances. There is a glut of Land at Market of which the U. S. A. hold *two*

hundred million acres. I am obliged for your attention to my particular finances. As to adjourning farther South, it will not probably take place under the present Confederation. What a new Year may effect, or the New System *you have so much at heart* may produce, depends upon various contingencies.

In regard to the accumulated and increasing debt of the Union, some people give broad hints that it will be paid with a sponge; which I think under our present weak and *resourceless* circumstances, will be a natural Consequence. Under a new energetic Government, I hear some politicians say, our inability is an insuperable bar to payment. The same men say resources might be pointed to of importance sufficient to pay an interest of 3 per Ct: And I am of opinion could the debt be funded at 3 per Ct. the holders of securities left at their option to reloan at three, or take their chance of unfunded securities at six, the bulk of the debt would be reloaned. To this it may be said the cry of injustice will be sett up; as it would indubitably at a sponge. Upon which I reply, in the first place, *that*, upon the whole, which will effect most extensive justice, to the greatest number of individuals, must be done. In the second place whats done by consent takes away error. And lastly, if it shall appear impracticable to effect more than three per Cent, will not necessity, which is paramount to all law, justify the measure? You will reply let this necessity be made apparent prior to such proceeding; in which I am perfectly agreed. Before I go from the subject, I am induced to think that under our present impoverished circumstances, could any measures be devised to fund our debt, and make sacred appropriations for the interest at even less than three per Ct. it would reanimate a dead mass of useless paper, and instantly make it an efficient Capital, for the farmer, the merchant, the manufacturer, and every man in the Community.

Whether "regeneration" is necessary to induce N. England, my honored Country, to adopt the New System or not, you who are in one of its largest States can form the best judgment. But am confident without that miraculous change, they will find the necessity of *that*, or one very like it. For as to the old wheel it wont budge an inch, and seems shattered to pieces. That some of the old spokes, and perhaps felloes, may do again I have no doubt, but that the nave must be taken out, and the whole worked over again appears to me indispensible. I do not form my judgment altogether upon what information I get from Boston, but compare it with that from my friends at Milton, and other parts of the state. Puting all which together, the result seems to be that, N. Hampshire are divided, and so is R. I. The majority of *one*, I am convinced are against

federal measures, and possibly of *both*. As to N. Y. one party are sure of adoption, another as positive it will be rejected. So no judgment can be formed. Some think Govr. Clinton will be elected for the City, which I doubt. He will come in however by a handsome majority for Ulster County. Maryland by a very large majority will accede; so will So. Carolina. N. Carolina will probably operate as Virginia, which State I think will be nearly divided; But I rather think from the best information attainable, the majority will carry it for adopting, with amendments, upon the plan of Massachusetts. I have heard in the Circles here, you, or sister W. have written the Columbian patriot. I suspect you, but wish to have it ascertained; for the purposes only of curiosity believe me.

To your demand, to know what we are doing in Congress, I answer — Nothing. To your enquiry what have we done? I answer — almost nothing — yet I dont know that those who have attended, which Massachusetts have incessantly, are to be blamed. The States have been in such a flutter about the New, that they have hardly paid attention to the old Government. One week we have nine States, then again we have only four or five; for to my surprise the Members are under no kind of control, and take themselves away whenever they think proper. The State of N. York particularly altho there are sometimes two or three members in Town, have for weeks together, had only a single member present. What is to be done? Massachusetts, and I presume others have written to their Legislatures upon the subject. Is more in their power? Most of the members are either of the Convention, or just before election dance down to the Hustings, and whether they are successful candidates or not, their attendance upon Congress is withdrawn. We have a prospect however of a full House in May, when we shall soon finish the more important business, and if the States agree, follow our instructions in organizing the new Government, and *secede*. The doing *it* before is courting encroachment, and leaving the people to the mercy of any rude invader, — and I am not ready for despotism. Your refusal to christen "Parson's bantling," and "an Echo to the Speech," shews a formidable combination is effected against the doings of convention. By the way, the Govr. was offended at Thacher and self for addressing the Legislature, other ways than thro him, which we did upon the supposition it was usually done while they were in sessions; However he refused, and gave *this* as a reason for not signing the resolve, empowering the delegates to procure a plan of the Line. I am perswaded heretofore communications have been thus made.

I informed Mr. Walker your ballance was ready, and upon its

appearing that the money received is identified, he says no objection can be made to receiving it. Farther I have requested him to give me on paper the objections, informalities etc, which require answer and remedy, and I will communicate them; which he assures me shall be done without delay. I will very chearfully attend the settlement and if in my power effect it. The other matter is still at the Tresury Board, Mr. Osgood informs me, that he hourly expects the returns from the commissioners, and if it shall appear that the U. S. A. have not paid the difference between 40 and 75 they will allow *it*. As for the recovery of your depreciation I see no great prospect of it. Congress have refered this business to the Tresury board before I came on; The Tresury Board have given an opinion in many instances *against* admiting new demands for depreciation, and in yours amongst the rest, and to me have repeated it as an impracticability. So that I confess I know not how to get forward in the business. I will again converse [with] the board and effect everything in my power.

You will oblige Lebaron & Hamatt to forward me their Charter party of Schooner Dispatch, having requested me to close the account for them. Upon application to the office where the Navy Board papers were lodged; I am informed no Charter parties were forwarded, which I wonder at.

Love to Sister and the family from

Yours very affectionately,

SAM. A. OTIS.

Mr. Walker says the ballance is £68263. 18.3 agreeably to corrected Cash book, by the Vouchers. They are so very minute and scrupulous, I see no chance of a speedy settlement unless Mr. Henderson would come on. But I suppose in that case they would allow nothing for expences.

I will forward Mr. Walker's objections however under his own hand.

Upon perusal of the papers I am fully perswaded the ribaldry flung at you by your enemies will tend more to make you friends than anything else, and if their spleen had not blinded them they would see the natural consequence.

John Sullivan was one of the Sargents who led the mutiny and assaulted Congress in Philadelphia; afterwards fled for misdemeanors into the Western world. Tis supposed he was concerned in mordering some Spanyards and is a very dangerous desperate character. Harmar has an order to take him as a dangerous enimy to the U. S. A.

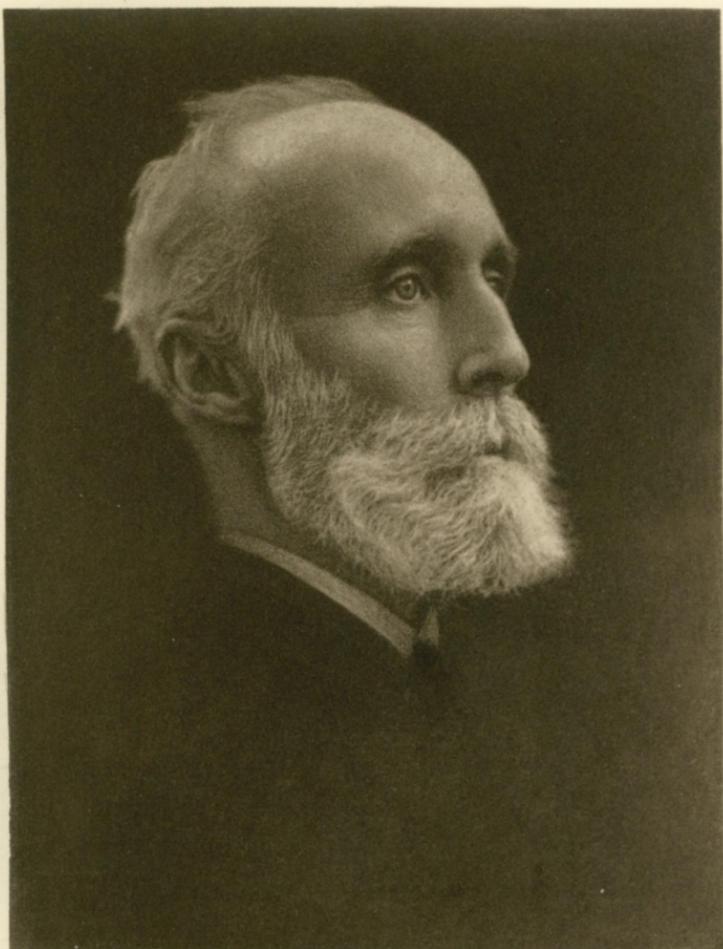
Mr. WINSLOW WARREN also presented to the Society the coats of arms of the Paddy and Wensley families, which had been in the possession of Edward Winslow, of Plymouth, a brother of General John Winslow, the loyalist, who removed to Nova Scotia and died there in 1784. A daughter, Elizabeth, of William Paddy, who had come to New Plymouth in 1635, married John Wensley; and their daughter Sarah Wensley married Isaac Winslow, a grandson of Governor Edward Winslow. Penelope Winslow, daughter of Isaac and Sarah Winslow, became the wife of James Warren, of Plymouth, and the mother of General James Warren of the War of Independence.

Remarks were made by Professor HART.

MEMOIR
OF
JOSIAH PHILLIPS QUINCY.
By M. A. DE WOLFE HOWE.

JOSIAH PHILLIPS QUINCY had an instinctive shrinking from personal notice so strong that, as the Proceedings of this Society have shown, he earnestly desired the omission from its records of any memorial of his life and work. In deference to this wish the President refrained from calling upon any one for the customary "tribute." He felt, however, that the obligation upon the Society to preserve its records unbroken should supersede the preference of one of its members. In preparing this memoir it has seemed to me that Mr. Quincy's wishes may fairly be met half-way through holding the record within limits as narrow as the circumstances will permit.

The annals of the family to which he belonged are so fully set forth in the publications and collections of the Society that it would be superfluous to repeat them here. It is enough to say that, in the seventh generation of descent from Edmund and Judith Quincy, who brought the name to New England in 1633, he was a grandson of Josiah Quincy, President of Harvard, and eldest son of Josiah and Mary Jane (Miller) Quincy. He was born in Boston, November 28, 1829. His grandfather, having completed the five years in which he made his enduring record as the "great mayor" of Boston, had just entered upon his duties as President of Harvard. Among these duties he gave so high a place to attending the chapel services that on the Sunday set for the baptism of the grandson who was to receive his name, he reluctantly remained in Cambridge, fearing that a deviation from his rules might lead hereafter — as he wrote in a letter to his son — "to a doubt in my own mind whether I had not sacrificed a *duty* to a *feeling*." He contented himself with sending his wishes that the child might live to be a blessing, not only to his parents, but "to his country and race."



Josiah Phillips Quincy

The letter of the grandfather throws a certain light upon the standards of conduct and purpose with which the child was to be surrounded. The service of "country and race" brought his father, while the son was still in college, to the mayoralty of Boston, a post which his own son in turn occupied fifty years later. Any one who has dealt with historical matters in Boston knows how hard it is, in imparting his knowledge to others, to draw a clear distinction between the Josiah Quincys who have successively taken conspicuous places in the local scene. Such a student may well be grateful to the subject of this memoir for asserting in early manhood his right to a name distinctively his own, and adding to the unadorned "Josiah" with which his life began the name of Phillips inherited from his great-grandmother, the wife of "the patriot," Josiah Quincy, Jr.

Of his early boyhood, long before this outward establishment of identity was considered, there are traces indicating clearly enough the presence of a marked individuality. In Emerson's Journal for 1836 will be found this entry: "Little Josiah Quincy, now six years, six months old, is a child having something wonderful and divine in him. He is a youthful prophet." Emerson had just seen the boy while, for a brief period, he was attending the strange school for children which Amos Bronson Alcott had established at the top of the Masonic Building on the corner of Tremont Street and Temple Place. The conversations between Alcott and his pupils are somewhat fully recorded, and "little Josiah Quincy" appears indeed as the "youthful prophet" described by Emerson. "Mr. Alcott," he declared in what purports to be a literal transcript of his words, "we think too much about Clay. We should think of Spirit. . . . If we should go out into the street and find a box, an old dusty box, and should put into it some very fine pearls, and bye and bye the box should grow old and break, why, we should not even think about the box; but if the pearls were safe, we should think of them and nothing else. So it is with the Soul and Body. I cannot see why people mourn for bodies." The conversations were unlike those which Alcott subsequently conducted in that they were far from monologues by him. Of all the young dialecticians he was training up, the young Josiah, notable for "fine choice of language and steadiness of mind," seems to have been among the most loquacious and extraor-

dinary. But the Alcott school bore a far less important part in preparing the boy for college than the Boston Latin School and the Academy of Stephen M. Weld. From these institutions he passed to Harvard College, graduating in 1850 and receiving his Master's degree three years later.

Immediately upon his graduation Mr. Quincy spent some months in Europe. In Paris he saw the *coup d'état* of Napoleon III in December of 1850, and the bloodshed which ensued — scenes which he recalled effectively for a popular lecture in the following decade. On his return to Boston he studied law for six months in the Harvard Law School and then in the office of Charles G. Loring. Admitted to the bar, he occupied himself for a time with his profession, especially in its relation to real estate. But, neither under the necessity of bread-winning nor ambitious to make a fortune of his own, somewhat delicate in health — the life-long victim of "hay fever" to an extent which for a long period made him an annual fugitive from vegetation — and, most of all, really concerned with the things of mind and spirit rather than with those of the market-place, it is no wonder that his active participation in business matters was short-lived. A story, "Betrothal by Proxy," which he contributed to the *Atlantic* in April of 1863, contains a passage of some autobiographic significance: "What in the world — or rather, what in the United States — is a man to do who accumulates sufficient property to relieve him from the necessities of active business? The answers offered to this inquiry of the Democratic sphinx are, as we all know, various enough. Some men, of ready assurance and fluent speech, go into politics; some doze in libraries; some get up trotting-matches and yacht races; while others dodge the difficulty altogether by going to disport themselves among the arts and letters of a foreign land." Outdoor sports or life abroad would have been impossible for Mr. Quincy. Dozing in libraries was no pursuit for so eager and catholic a reader. "Ready assurance and fluent speech" were not included in his equipment. If they had been, there can be little doubt that political life would have made a strong appeal to him, for questions of legislation and government always held a high place among his intellectual interests. It was natural that he should turn early to the far-reaching pursuit of letters and thought which might lead him where they would.

The first expression of his devotion to literature was a dramatic poem, *Lyteria*. It was recognized at once as belonging to the same class as Talfourd's *Ion*, to which President Felton, commanding the book in the *North American Review*, likened it, admitting no unfavorable comparison between the work of his young countryman and that of Talfourd. *Lyteria* appeared in 1854, anonymously, though the authorship, acknowledged in the second edition, seems to have been an open secret from the beginning. When *Charicles*, another tragedy of ancient Rome, appeared in 1856, it was signed "By the Author of *Lyteria*"; but the copyright stood clearly in the name of "J. P. Quincy." Both poems were warmly welcomed by the contemporary critics — including Bryant, Richard Grant White and William Gilmore Simms. The plays belonged distinctively to the period in which they were written, and in thought, sentiment and form were so admirably representative of their period that the enthusiasm with which they were received is easy to understand. Only Willis — more of a journalist than most of his contemporaries in literature — exclaimed when *Charicles* appeared: "Why will not Mr. Quincy (the author) unlade his Pegasus of this war-horse caparison, and harness him in a light trotting wagon of the time, to run the true race that is open to him?" To this question Mr. Quincy's answer — like that of many young men who try their hand at verse before settling down to prose — was to unharness his Pegasus completely, and to exercise him thereafter almost entirely in private. The single excursion into publicity came in 1867 at the annual meeting of the Phi Beta Kappa Society at Harvard. This was the year when Emerson delivered his second Phi Beta Kappa oration. Mr. Quincy was the poet of the day, but the poem is not to be found among his papers, in the archives of the Society at Cambridge, or in the Boston newspapers of the time. The *Transcript* for July 19, 1867, remarked upon it in the following sentences, which, in lieu of the poem itself, may well be preserved: "The poem, by Josiah P. Quincy, was a fine production and finely delivered. It had its full share of the telling wit and felicitous allusions which all good anniversary poems ought to have, and at the same time it had the substance of noble thought and elevated sentiment, which such poems do not always exhibit. The description of the two temptations of the preacher who

proposes to himself an ideal aim, was singularly keen, animated and true — a piece of psychology dramatized.” Indeed the dramatizing of psychology was a characteristic element in the two volumes by which Mr. Quincy’s poetic achievement must be measured. Elevation and felicity were equally characteristic of it; but perhaps its failure to take the permanent place to which at first it seemed destined was due to the tendency towards dramatizing psychology rather than life.

On December 23, 1858, Mr. Quincy was married to Miss Helen Fanny Huntington (1831-1903), eldest daughter of Judge Charles Phelps Huntington of Northampton, and his wife, Helen Mills, a daughter of Senator Mills of Massachusetts. At about the time of his marriage Mr. Quincy established himself in Quincy near the houses of his father and grandfather, and, moving later to his father’s house, made Quincy his home for the greater part of thirty-five years. Through the earlier years of this period he took charge of the considerable farming operations on the family place; but reading and writing remained his paramount pursuits, both in Quincy and throughout the later years, approximately twenty, when Boston was his winter residence. In each place a domestic life of rare happiness, due in large measure to the constant companionship of a wife possessing singular vigor and devotion of character, was his perpetual blessing. Of the five children born of this marriage, the eldest was the Hon. Josiah Quincy, Mayor of Boston from 1895 to 1899.

The range of Mr. Quincy’s reading was extraordinarily comprehensive. His zest was equally keen for “mere literature,” for biography, for science, for sociology and government, and for speculative inquiries of every kind. The phenomena of spiritualism and, later, of psychical research interested him intensely. The boy of seven who pleaded for less of Clay and more of Spirit was truly the father of the man. A student — one may say an intimate — of Shakespeare to a degree which enabled him to recite entire plays without prompting, he gave a searching attention to every book presenting argument or theory in favor of the Baconian claim to authorship. Neither in psychical nor in literary speculations, however, was he wont to drift far and long enough from accepted moorings to become a complete convert to unproved novelties. The speculative rather than the partisan element in a discussion

was what enlisted his interest. "There is a certain waywardness in my disposition," a character in one of his short stories declared, "which loves to punctuate an inflated conventionality, even when I myself am most conventional." Thus the writer of the story, through incessant excursions into many fields of thought, maintained the steadiness of temper which belongs to the man whose vision cannot be narrowed to a single aspect of the object he is regarding.

If the range of Mr. Quincy's reading was wide, so too was that of his writing. The poetical undertakings have already been mentioned. For many years after the publication of the two books, Mr. Quincy was a diligent writer of short stories for *Putnam's* and other extinct periodicals, and for *The Atlantic Monthly*. The stories in general had a background related less to the emotional substance of which fiction is commonly made than to interests primarily intellectual. There was a whimsical quality in the characterization and the dialogue which gave the stories a highly individual flavor. All these elements entered into Mr. Quincy's most ambitious piece of fiction, "The Peckster Professorship," which first appeared serially in *The Atlantic Monthly* and then as a book (1888). It was a book for the few who could relish a somewhat satirical treatment of academic and intellectual society and at the same time could bring to the reading some intimacy and sympathy with psychical questions. In the quarters where any welcome might have been expected for it, the story met with a warm reception, the *London Spectator*, for example, devoting nearly two pages to the commendation of it.

In quite another field — that of political writing — Mr. Quincy was abundantly productive. Through the Civil War period he was a frequent contributor to the *Anti-Slavery Standard*, both in the editorial department and as assistant and successor to his uncle Edmund Quincy in the capacity of Boston correspondent. Throughout his life he was a prolific writer of unsigned contributions to the daily press on passing political topics. The single subject on which he wrote perhaps most frequently was that of taxation. Two pamphlets, "Tax Exemption no Excuse for Spoliation" (1874) and "Double Taxation in Massachusetts" (1889), speak for his interest in this matter. Other essays on political and educational topics were brought together in a volume, "The Protection of Majorities" (1875).

The files of *The Unitarian Review*, of Dr. Hale's magazine, *Old and New*, and of *The Atlantic Monthly* speak further of his productiveness as an essayist. A paper on "Intolerance" in *The Unitarian Review* for June, 1880 — an amplification of Froude's dictum that "real belief is necessarily intolerant" — presents with vigor a perennially wholesome truth, and shows clearly enough why the editors wanted his essays. In *The Atlantic* for September, 1890, a little paper on "Cranks as Social Motors" affords an excellent example of Mr. Quincy's skill in this form of expression. "Crank," he remarks, "come from all classes, and may be roughly defined as persons who have not the instinct of their order." Their value in putting things in motion is set forth in telling phrase and apt, abundant illustration. Then, with a quaint recognition of the humor in the situation, he declares it "impossible to forbear the opportunity of delivering himself of opinions which for the past thirty years he has advocated, and which, according to the judgment of those who ought to know, entitle him to a fair position in the brotherhood of cranks," mounts his own hobby and makes a brief eloquent plea for "a total change in our methods of taxing."

It remains to say a word about Mr. Quincy's dealings with historical matters. His contributions to the *Proceedings* of this Society span a broad stream of time and topics. Beginning in 1870, five years after his election to the Society, with remarks on the gift of a letter relating to the battle of Bunker Hill, his written and spoken words extend even to a tribute to William Everett delivered at the February meeting of 1910, the year of Mr. Quincy's death. Memoirs of Thomas H. Webb, Robert C. Waterston, Octavius Brooks Frothingham and Edmund Quincy stand to his credit in the biographical portion of our records. Contributions appear in many of the volumes of *Proceedings* published during the forty-five years of his membership. Outside these records a delightful specimen of Mr. Quincy's historical work is to be found at the beginning of the fourth volume of Justin Winsor's *Memorial History of Boston*. The chapter on "Social Life in Boston: From the Adoption of the Federal Constitution to the Granting of the City Charter" called upon him for knowledge which he was peculiarly qualified to acquire and impart. Students of Boston history will always be the richer for what he gave them here. So, too, in a measure

far greater, both students and readers owe him their gratitude for a service which he never claimed. But for him that clearest illumination of Boston life during the earlier portion of the nineteenth century, *Figures of the Past*, could hardly have come into being. In the Introduction to the book his father, Josiah Quincy, wrote that when a New York editor asked him to furnish a series of papers upon former men and things, his first impulse was to decline the proposition: "weighted with nearly fourscore years, I could not think of entering the list of general letters. I was about to succumb to this embarrassment when a friend, who had read my journals with interest, offered me his most valuable aid in what may be called the literary responsibilities of the undertaking. My narratives have gained in grace of expression as they passed beneath the correcting pen of my obliging critic, and I am confident that a stern exercise of his right of curtailing reflections and omitting incidents has been no less for the reader's advantage. The first paper, as originally published,¹ contained an explicit avowal of this indebtedness; and it is right that I should repeat it more emphatically in allowing the series to be put into a permanent form." The "friend" and "obliging critic" was no other than his son, who may truly be said to have made the book out of the materials supplied by his father. It is far from fanciful to believe that the avowal of indebtedness would have been explicit enough to render the friend and critic recognizable to all but for the son's determined preference to remain in the background.

When the first of Mr. Quincy's books, *Lyteria*, appeared anonymously, a reviewer revealing the author's name said in effect that it could not have been withheld because the work was poor, and added that he was "his own severest critic." In what has been said here about his writing in general more emphasis has been laid upon the substance than upon the form of it. In the form there was a pervading distinction which spoke for standards due to no passing fashions but to the best models in the writing of English. Through all his prose there was the nicety of phrase, the felicity of epithet characteristic especially of those whose English rests upon a basis of classical training, and has acquired besides something of the fluidity which often springs from the exercise of writing verse. Mr. Quincy could

¹ In *The Independent*.

not have measured himself by the standards which he set up without being indeed his own severe, if not severest, critic. Where the qualities which marked his writing will be found when the influences which produced them shall have passed completely away, one may not predict.

Of his whole avoidance of foregrounds in life it may be said, after all, that he was essentially a private person. It is hard to dogmatize about human character, and to say in the present instance just how much the devotion to privacy was due to an imperfect adaptation of physical and temperamental equipment to the commoner activities of American life, or how far it was the direct result of an habitual state of mind, speculative rather than executive and unworldly to a degree most rare in any time or place. As one saw him in later years he seemed to represent a vanishing type, to carry into our own period an image of a period that has closed. If it is safe to venture a generalization, the men who arrived at maturity before the Civil War carried forward into our common day some rays from the morning light of American civilization; the men now approaching old age who first came actively upon the scene during or after the Civil War are far less markedly separated from their younger contemporaries. The Civil War was the great dividing line of our social, as of our political, history. Apart from merely personal characteristics, then, Mr. Quincy will be remembered by many as a representative of the older order. In the more individual aspect he will recall himself as a reserved and modest gentleman of distinguished mien and carriage, genuinely democratic, of the friendliest disposition towards all his fellow-creatures, with tastes of a simplicity almost austere, with habits of life so quietly ordered as to assume even a clostral quality. But between the outward show of this sheltered existence and the inward reality the divergence was broad. Of external adventure Mr. Quincy was peculiarly innocent through all his days. In mental and spiritual adventure he was undaunted and untiring. To all the dominions which he explored he carried that which the traveller must bear with him if he is to bring anything home from his journey. And home he bore a wealth of thought on all that renders life the vital thing it is.

After an illness of a single week Mr. Quincy died of pneumonia, in Boston, October 31, 1910.